

Please note: These transcripts are not individually reviewed and approved for accuracy.

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
BOARD MEETING

JOE SERNA JR., CAL EPA BUILDING
CENTRAL VALLEY AUDITORIUM
1001 I STREET, SECOND FLOOR
SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 25, 2001

9:35 A.M.

Doris M. Bailey, CSR, RPR, CRR
Certified Shorthand Reporter
License Number 8751

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

A P P E A R A N C E S

BOARD MEMBERS PRESENT:

LINDA MOULTON-PATTERSON, Chair

DAN EATON

JOSE MEDINA

MICHAEL PAPARIAN

DAVID A. ROBERTI

STAFF PRESENT:

BONNIE BRUCE, Interim Executive Director

KARIN FISH, Chief Deputy Director

KATHRYN TOBIAS, Chief Legal Counsel

ELLIOT BLOCK, Legal Counsel

YVONNE VILLA, Board Secretary

DEBORAH MCKEE, Board Administrative Assistant

--oOo--

I N D E X

	PAGE
Item I Call to order	1
Item II Roll Call and Declaration of Quorum	1
Item III Opening Remarks	1
Item 33 Request for Direction on Bureau of State Audits Report Recommendation Re: Closure Plan Deadline Extensions	3
Item 34 Request for Direction on Bureau of State Audits Report Recommendation Re: Coordination of Closure Plan Review	32
Item 35 Request for Direction on Bureau of State Audits Report Recommendation Re: Loans & Grants for Landfill Closures	38
Item 21 Consideration of Revised SWFP for Benton Landfill Motion	44 47
Item 22 Consideration of Revised SWFP for Chalfant Landfill Motion	48 50
Item 28 Discussion of Previous Board Action and Consideration of Adoption of Proposed Emergency Regulations for the Transfer/Processing of Putrescible Wastes	52
Afternoon Session	98
Item 28 (Continued) Motion	98 115
Item 29 Discussion & Consideration of Approval to Formally Notice Proposed Regulations for Compostable Materials Handling Operations & Facilities	117
Item 37 Discussion of DHS Determinations Re: Low Level Radioactive Waste	138

I N D E X

	PAGE
Item 30 Semiannual Update & Publication of Inventory of SWFs Violating State Minimum Standards	185
Item 40 Approval of Proposed Scoring Criteria & Evaluation Process for Tire Product Commercialization Grant Program	193
Motion	197
Item 38 Approval to Formally Notice Proposed Regulations for Playground Safety & Recycling Act Grant Program	198
Item 39 Approval for Distribution of Funds, Eligibility, Scoring Criteria & Evaluation Process for Park Playground Accessibility & Recycling Grant Program	204
Motion	209
Item 43 Approval of Contractor for E-Waste Baseline Generation Study Contract	214
Motion	218
Item 44 Consideration of Approval of Enforcement Procedures Involving Waste Tire Facilities	218
Motion	222
Item 45 Approval of Interagency Agreement with DTSC Re: Westley Tire Fire	223
Motion	224
Item 46 Consideration of Sponsorship Action to Support Public Education Activities	227
Motion	240
Item 47 Discussion of Pending Legislation	241
Adjournment	245
Certificate of Certified Shorthand Reporter	246

--oOo--

1 P R O C E E D I N G S

2 --oOo--

3 BOARD CHAIR MOULTON-PATTERSON: I'd like to
4 call the meeting back to order, please.

5 Welcome back to our April meeting. Please call
6 the roll.

7 BOARD SECRETARY VILLA: Eaton.

8 BOARD MEMBER EATON: Here.

9 BOARD SECRETARY VILLA: Medina.

10 BOARD MEMBER MEDINA: Here.

11 BOARD SECRETARY VILLA: Paparian.

12 BOARD MEMBER PAPARIAN: Here.

13 BOARD SECRETARY VILLA: Roberti.

14 (Not present.)

15 BOARD SECRETARY VILLA: Moulton-Patterson.

16 BOARD CHAIR MOULTON-PATTERSON: Here. We do
17 have a quorum. And I would like to remind the audience
18 to please turn off all cell phones and pagers during the
19 meeting.

20 Also, if you have an item you wish to speak to
21 the Board about, please, there's slips in the back of the
22 room, and if you give them to Ms. Villa right over here
23 she'll be glad to make sure that we know that you'd like
24 to speak.

25 Okay. We had a busy day yesterday, and we're on

1 item number 28, I believe, is that correct, Ms. Nauman?

2 MS. NAUMAN: Yes. Julie Nauman, Permitting and
3 Enforcement Division.

4 At the close of yesterday's meeting --

5 BOARD CHAIR MOULTON-PATTERSON: Excuse me, I'm
6 sorry, I knew I was forgetting something.

7 Mr. Eaton, any ex-parte?

8 BOARD MEMBER JONES: None to report.

9 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

10 BOARD MEMBER MEDINA: Mike Mohajer.

11 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

12 BOARD MEMBER PAPARIAN: Denise Delmatier
13 regarding the putrescible regs, and Mike Mohajer and John
14 Cupps on the science of statistics.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you. And
16 I also spoke with Denise Delmatier on number 28, the
17 putrescible regs.

18 Okay, where were we? Ms. Nauman.

19 MS. NAUMAN: Thank you. We were going to take
20 up the two permits for Mono County, but at the request of
21 Mr. Paparian he suggested that we go ahead and take a
22 look at items 33 and 34, both which deal with
23 recommendations from the audit report relative to closure
24 plans.

25 And Mr. Paparian had some questions about the

1 concept of trickling which are addressed in those two
2 items. So with the Board's indulgence, I'd like to
3 suggest we take up items 33 and 34.

4 BOARD CHAIR MOULTON-PATTERSON: Now? And then
5 go to 21 and 22?

6 MS. NAUMAN: Because of their interrelationship
7 we'll kind of move a little bit back and forth between
8 those two and go back to the permits.

9 For the record, item 33 is discussion of and
10 request for direction on Bureau of State Audits Report
11 recommendation regarding closure plan deadline
12 extensions, recommendation number 11.

13 And item 34, discussion of and request for
14 direction on Bureau of State Audits Report recommendation
15 regarding coordination of closure plan review,
16 recommendation number twelve.

17 Scott Walker will make the presentation.

18 MR. WALKER: Scott Walker, Permitting and
19 Enforcement Division. The audit report findings include
20 the following statement:

21 "California's regulations relating to closed
22 landfills are vague and allow landfill operators
23 to delay closure for extended periods.

24 "As a result, operators are delaying
25 closures using a variety of mechanisms, such as

1 taking long periods to submit final closure
2 plans and slowing waste acceptance to very low
3 levels, a process known as trickling waste."

4 Recommendation number 11 of the report addresses
5 this finding by stating that, "The Board should modify
6 its regulations to prevent LEA's from independently
7 extending deadlines for submitting closure plans."

8 The purpose of this item is to provide an
9 opportunity for the Board to direct staff regarding the
10 response to auditor's recommendation number 11.

11 Based on this direction, staff will prepare an
12 item for consideration of specific options to address
13 this recommendation, and that consideration item is
14 currently scheduled for the May Board meeting.

15 Recommendation number 11 overlaps with the
16 recommendation twelve discussed in the next item. And in
17 this item, staff will focus specifically on closure, post
18 closure deadlines, and the issue of delay of closure
19 activities, including the concept of trickling.

20 The closure plan and post closure plan process
21 issues will be discussed as part of the next item.

22 And in addition, there's several other areas and
23 recommendations that tie into these two items. For
24 example, financial assistance related to closure will be
25 part of recommendation thirteen in item 35. And then

1 enforcement issues related to this recommendation are
2 part of recommendation ten which is to be discussed at
3 the May Board meeting.

4 Staff analysis. The term trickling is
5 undefined. It has generally been used to refer to
6 landfills that significantly reduce disposal rate such
7 that the anticipated closure date at which capacity is
8 reached is extended well beyond or indefinitely into the
9 future.

10 Other landfills not at capacity may all together
11 cease accepting waste without implementing closure, post
12 closure maintenance plan for an extended period. This
13 refers to the case of basically delaying closure where
14 it's not trickling.

15 The concern here is that trickling and delaying
16 closure is that delaying closure may lead the site in an
17 extended condition under lesser environmental standards,
18 thereby increasing the risk to the environment.

19 The audit report does, however, acknowledge that
20 there has not been an evaluation as to the extent
21 unclosed landfills pose a threat to public health and
22 safety and the environment.

23 And this evaluation is being incorporated as
24 part of the landfill study which the Board heard an
25 update yesterday on.

1 It is also difficult to determine to what extent
2 trickling is occurring, not just because of the lack of a
3 definition. The potential trickling landfills are
4 expected to be unlined, perhaps in rural jurisdictions
5 primarily, and they may be identified as part of a list
6 of 51 landfills in LEA Advisory 37. And these are
7 landfills that accept low tonnage, basically less than
8 twenty tons a day. Approximately thirty other landfills
9 have ceased accepting waste but have not closed according
10 with closure deadlines.

11 Contrary to the audit report, neither federal
12 nor state regulations prohibit the trickling of waste.
13 And LEA's are, in most cases, not extending timelines
14 indefinitely in conflict with regulations or LEA
15 performance duties.

16 The important point here is that the timelines
17 for implementation of closure activities are not
18 activated until the final receipt of waste. Therefore, a
19 landfill that is trickling waste has not received its
20 final shipment of waste and is not required to implement
21 closure activities under the regulations.

22 Some of the causes of delay of closure in
23 trickling. Trickling may occur by initiative of the
24 operator or under circumstances beyond the control of the
25 operator. The underlying reason in most cases is

1 probably economic, just not enough money to close it.
2 Maybe it can be not, the operator not able or not willing
3 to finance the closure of the site or relinquish the
4 potential value of the unused capacity.

5 The delay of closure may also occur because of
6 other factors such as litigation and CEQA issues that
7 come up, technical issues like alternative final cover
8 demonstration projects, and also agencies that, regarding
9 unable to complete reviews as part of the closure plan
10 review process which we'll talk about in the next item.

11 Another important point about delay of closure
12 and the issue of trickling is that primarily rural
13 communities are, they desire a backup or so-called
14 mothball capacity to address emergency conditions such as
15 fires, earthquakes, floods, road closures that prevent
16 them from long hauling waste, and also as an option to
17 manage certain bulky inert and other wastes.

18 There is a legitimate question here as to
19 whether that really constitutes trickling, and we'll talk
20 a little bit more about that and some case histories to
21 illustrate that.

22 Examples of delay of closure trickling. I want
23 to go through just several examples to kind of illustrate
24 these situations, including a brief discussion of some of
25 the innovative ways the Board and the LEA have really

1 helped to resolve these cases. Because it's not that
2 these cases are just all out there and nothing's being
3 done, but a lot of them have been addressed and resolved
4 with a lot of hard work.

5 Several examples of trickling. Imperial County
6 has, or had ten landfills, they have ten landfills. And
7 because of waste consolidation of the industry and the
8 loss of waste stream which was going to private landfill
9 in the county, the county waste flow dropped
10 significantly. And so, technically, that was probably
11 trickling because the closure dates were now well
12 extended in the future.

13 Again, this is not in control of the operator,
14 entirely within the control of the operator because of
15 the whole solid waste infrastructure issue.

16 In that case the way it was addressed, at least
17 for the time being, is that the main problem,
18 environmental problem site, which was Brawley landfill,
19 there was a remediation project approved by the Board
20 under 2136, and then the county, in order to do that
21 project the county has to sign an agreement to commit to
22 closing early for landfills including Brawley. So that's
23 an example of a trickling situation at least for the time
24 being that is being addressed.

25 Another case is Santiago Canyon landfill which

1 is Orange County. And that landfill during the county's
2 crisis situation, that was a landfill where they
3 significantly reduced the flow of waste, arguably, you
4 know, to avoid closure and the, and the burden that would
5 place on their program to do that, for several years.
6 And then they stopped and kind of went inactive. And
7 they are, they have committed and submitted a final
8 closure plan and they are under a compliance schedule,
9 and that appears to be addressed for the time being.

10 And again, in that situation there's no real
11 major environmental problems identified from the agency
12 that would trigger a much more earlier schedule as
13 determined by the LEA and the Water Board.

14 Examples of delay of closure which are probably
15 not trickling, but we'll go through those. The backup or
16 mothball proposals, there's been several that have been
17 submitted to the Board for permit concurrence, rural
18 jurisdictions; and they've achieved the concurrence of
19 the Board, and have been reviewed pretty extensively to
20 determine that environmental conditions are appropriately
21 addressed.

22 And examples include Gopher Hill and Chester
23 landfills in Plumas County, and also the American Canyon
24 landfill in Napa County.

25 And one of the ways, and that was a, they're

1 hauling waste by rail haul, and they still had unused
2 capacity, and they needed a backup in case there was an
3 earthquake or an emergency.

4 And at the same time to address some of the
5 environmental concerns, what they did was partial closure
6 which was they closed off the MSW portion by implementing
7 the final closure standards. So they came before the
8 Board and did receive concurrence for a revised solid
9 waste facility permit.

10 The next situation is the Mono County cases.
11 And I'll give you a little bit of background. And again,
12 there's two permits that would be considered, Benton and
13 Chalfant. But Mono County has a total of six landfills.
14 The Bridgeport landfill arguably is the one that has the
15 most environmental problems. And that's the one that
16 they proposed a loan under the facility compliance loan
17 program, but there wasn't sufficient funds to fund that.

18 The other sites, the other five landfills are in
19 general not in serious environmental, major environmental
20 problems other than certain operational conditions from
21 time to time. But according to the Water Board, the
22 groundwater situation is addressed, there's no gas
23 situation at these landfills.

24 And again, as you hear of those landfills, hear
25 those landfills being discussed, the tonnage there, you

1 know, they've always been a low tonnage landfills, rural
2 area, very low flow of waste flow rate. And they are
3 moving some of their waste to consolidate certain
4 landfills. And those landfills -- but the reduction is
5 like on the order of 350 tons per year down to about a
6 hundred tons per year extending closure dates from fifty,
7 approximately fifty years.

8 So in terms of trickling, is that significant
9 reduction or is it being addressed? You know, arguably
10 the reviews of the agencies have, from the agency's
11 standpoint they feel that the environmental conditions at
12 these sites are sufficiently addressed, at least for the
13 two landfills coming up in order to provide a
14 recommendation to the Board.

15 Again, another case of a delay of closure is
16 Berryessa Garbage Service in Napa County. And this is a,
17 this is a case where they just shut down and, because of
18 Subtitle D, and they didn't have, it was a private
19 landfill, and they didn't have sufficient funds to
20 complete the closure. They also had a lot of
21 environmental problems associated with the operation.

22 And the LEA, especially the LEA did a really
23 good job with Board staff of crafting a solution to that
24 case in which we were able to have the Water Board agree
25 and work with the operator so that they can use their own

1 equipment and provide a very sound cap.

2 And they've been implementing that according to
3 the compliance schedule, and the site has been in very,
4 very good condition since that time. So there is a case
5 where, you know, a serious issue based on financial need
6 was addressed.

7 And finally, as an example, in Siskiyou County
8 where we now have, I think, one landfill operating. At
9 one point there were ten landfills operating in this
10 rural county. Five have been closed, and actually
11 certified closed.

12 And this was another case where it was an
13 innovative approach with the Board's closure and the
14 Financial Assurances Section where we were able to work
15 with the operator to get a workable environmentally sound
16 closure option and succeed in this particular case.

17 The other four landfills that have shut down,
18 there are plans in place, and they are addressing interim
19 conditions, and also compliance schedules for finishing
20 up those plans and implementation at the present time.

21 Potential regulatory changes. Based on the
22 Board direction, a regulatory concept will be developed,
23 unless the Board decides that there isn't an issue and
24 that no further action is necessary. But the regulatory
25 concept would clarify the definition of trickling, and

1 either prohibit trickling under specified circumstances,
2 or controlling trickling and delay of closure to increase
3 public health and safety.

4 With that, maybe before we get to the next item
5 I would just maybe offer to answer any questions
6 specifically with regard to trickling and delay of
7 closure.

8 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

9 BOARD MEMBER PAPARIAN: I just wanted to follow
10 up on some of the suggestions. I think you just covered
11 one, but I just want to make clear what happens from here
12 with regards to this issue, and as a result of some of
13 the, you know, some of the background you have here and
14 some of the implied recommendations at least.

15 I think that we ought to move forward with
16 amending our regulations to require LEA's to issue
17 permits for closed landfills so that we have some, you
18 know, authority and jurisdiction there.

19 That, you know, as you said, coming up with a
20 definition of what trickling is and, you know,
21 prohibiting or controlling it in order to protect the
22 public safety.

23 That we ought to amend our regulations to
24 require approval of closure plans when we have solid
25 waste facility permit concurrence.

1 That's what I gather from the thing, and that's
2 what I'd like to --

3 MR. WALKER: Correct, the staff's, the staff on
4 this item is recommending amending regulations as
5 discussed and per Board direction.

6 The way it works now as a regulatory concept
7 based on the Board's direction, we would bring this back
8 in May and it would be a concept. And that, the
9 consideration of the concept, once the concept of the
10 Board's parameters on where, on how we go forward are
11 defined in that, then we would proceed with the informal
12 rulemaking process to develop an actual specific
13 regulatory language to go forward with the 45 day comment
14 period.

15 BOARD MEMBER PAPARIAN: Okay. Do you feel like
16 you need any more direction then to move forward now?

17 MR. WALKER: I think we anticipate there will
18 probably be some testimony and some comment here. And I
19 think with the timeframes it's going to be difficult for
20 us to establish a final, you know, proposed rulemaking
21 for like approval of a 45 day or -- during our regulatory
22 process we have stages of informal review, and so until
23 that time is, is, you know, until we get enough direction
24 that we're able to establish something, then we would
25 look at coming to the Board in May with the actual, more

1 detailed concept of the regs, and then we would hash it
2 out later.

3 MS. NAUMAN: Let me just weigh in a little bit
4 here. On all of the audit recommendation items that
5 we're bringing forward, we're really taking a two step
6 approach which was reflected in the sixty day report that
7 we sent back to the auditor.

8 And what our approach is is to bring you an
9 item, as we have today, that has kind of a unique title
10 on it. It's not for consideration, it is discussion and
11 seeking Board direction.

12 So we're looking for your general direction on
13 do you want to do something about this recommendation?
14 Do you agree that there needs to be some action taken?
15 And, if so, generally what is that action that you would
16 like to, again to move forward on.

17 That will give staff sufficient direction to
18 then prepare a subsequent item for you, and according to
19 our schedule it's either a month or two months after you
20 see the discussion item and we get your direction. In
21 this case we're talking about May.

22 And we would then craft for you, based on your
23 direction today, a consideration item where you could
24 actually take action to say, yes, we now want to move
25 forward with a regulatory scheme that looks like this.

1 And then we would schedule that regulation
2 development project along with all the other regulation
3 projects that we have, and others that we anticipate may
4 come out of your review of all of the audit
5 recommendations.

6 And then we would begin the actual process of
7 developing the regulations, which as you know begins with
8 the informal process.

9 So it would be sometime before we actually would
10 come back to you and request your approval to start a 45
11 day formal review period on any of the regulations that
12 you might consider as a response to the audit
13 recommendations.

14 Does that help?

15 BOARD MEMBER PAPARIAN: I think so.

16 LEGAL COUNSEL TOBIAS: Madam Chair, maybe I
17 could help. I think that the kind of direction you were
18 starting to give is what staff was expecting to hear, and
19 if the Board generally concurs in it, then that's fine.

20 I think if the Board, you know, if one member
21 suggests one thing and one member suggests another,
22 that's the kind of discussion too that staff is looking
23 for, so that when they do come back they're at least
24 heading in the right direction.

25 As Julie mentioned, we're tying this item

1 because it's a little bit unique, and you'll notice that
2 the title is different.

3 So I guess the way I might suggest we do it is
4 if the Board is in general agreement, I'm not sure we
5 necessarily need a motion, we have the record to reflect
6 that.

7 If we get to a point where the Board is kind of
8 disagreeing a little bit, or going back and forth on the
9 direction, then that's something we might use a motion to
10 try to resolve at that point.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
12 Tobias. And I'll certainly go to my other Board members,
13 but I certainly concur with Mr. Paparian. And I just
14 want to be clear that we will be working on some sort of
15 a definition so we're all speaking from the same point on
16 trickling.

17 Okay. Mr. Eaton, did you have anything?

18 BOARD MEMBER EATON: Yes, well I laud the
19 attempt. I think that, like anything, if you only treat
20 the symptom and not the disease then you'll never get any
21 cure.

22 And while Mr. Paparian proposes one prong, and
23 it's easy to beat up on weak rural counties where most of
24 these are present, I'd like two other issues, quite
25 frankly.

1 What is the interaction between the federal
2 preemption? What really are we able to do? That hasn't
3 been brought out yet.

4 Because many of these landfills unfortunately --
5 I share your views, Mr. Paparian. But unfortunately we
6 have very little ability to impact because they took
7 place prior to, they were grandfathered in, certain kinds
8 of issues were grandfathered in. Like the footprint, we
9 had that issue that was up in Northern California where
10 we weren't able to really bring them in because they were
11 grandfathered in.

12 I would like to at least in this discussion item
13 or the next item have a discussion as to what federal
14 preemption assertions can be made so that when we craft
15 something that the Board can consider, it is in keeping
16 with our ability to make that impact, irrespective of the
17 audit findings.

18 The audit can say one thing, but they may not
19 have taken into consideration any of the federal
20 preemption rules and regulations that could be applied.

21 And the second one is, I think right here in our
22 own basic key issues is that while the regulations could
23 be promulgated to control the trickling of waste, the
24 revised regulations would not address the underlying
25 economic reasons operators trickle waste and to fund

1 closure. And anytime you're going to give a stick, you
2 need to kind of give a carrot.

3 And if you look back at what we did just
4 recently a few months ago when the loans came forward for
5 the standards that we had for operating and giving to the
6 landfills that had problems, you know, we gave 'em for
7 things that, that this would be more appropriate for,
8 that money going for; instead we were brought forward
9 recommendations that really didn't address the kinds of
10 issues that are here.

11 And I think that's the kind of issues that we as
12 a Board must look at. We have to look at both the carrot
13 and the stick. And when we do hand out loans under our
14 loan program for the minimum standard violations and
15 other things, these are perfect examples of putting a
16 package together. Because then they have no excuse that
17 when we come in with regulations and say you must do X,
18 Y, and Z, what we're permitted assuming no federal
19 preemption, but we say but, in order to help you we have
20 this loan program.

21 If they then do not want to participate or do
22 not want to then make their priorities within their own
23 budget, then we have the ability to say we've done all we
24 can. We do that with everyone up and down the state, no
25 matter whether it's rural, urban, what have you.

1 So I don't want, you know, us to go down and
2 give direction only along one prong. That's not what,
3 either in the briefing papers or what will solve the
4 problem long term.

5 And we have some, I think we have a loan program
6 in place, and if I'm not mistaken it's zero interest, is
7 it not?

8 MS. NAUMAN: It is, Mr. Eaton, but the funding
9 for that program has been exhausted with the action of
10 the Board to --

11 BOARD MEMBER EATON: Well then wouldn't it be
12 the thing to go forward and try and get it in our next
13 budget item, and bring it forward and saying with a BCP,
14 a budget change proposal, and saying look it, we have an
15 audit challenge here that says we have to do X. We need
16 to have this budget change proposal or some additional
17 authority --

18 MS. NAUMAN: Actually, Mr. Eaton.

19 BOARD MEMBER EATON: -- for financial. I mean
20 is that right?

21 MS. NAUMAN: That would be the appropriate
22 approach, to have --

23 BOARD MEMBER EATON: Sure. And that's the
24 comprehensive approach to solving a problem where we have
25 trickling. That's what I'm trying to get at.

1 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton, thank
2 you very much for bringing that up.

3 BOARD MEMBER EATON: I haven't finished my
4 statement yet. And I would appreciate, you know --

5 BOARD CHAIR MOULTON-PATTERSON: But I just want
6 to respond to that one point if you don't mind.

7 BOARD MEMBER EATON: Sure, go ahead.

8 BOARD CHAIR MOULTON-PATTERSON: I just wanted to
9 say that, you know, it's not our intent to beat up on the
10 rural areas at all, and I was going to support an ongoing
11 facility compliance loan program to help rural areas on
12 item 35, which I understand would, we would need to ask
13 for a BCP.

14 So I was just supporting you on that, and please
15 continue.

16 BOARD MEMBER EATON: I again think that any
17 direction must continue those three or four items which
18 is the federal preemption examination before anything can
19 be considered. What can we really craft?

20 Two, what kinds of programmatic opportunity are
21 available for individuals who have this particular
22 trickling problem?

23 And three, what can, where there is lacking a
24 program, what are the proposals that we could support?
25 After all, that is what people do when they try and solve

1 problems, they look at a comprehensive approach.

2 It's not always something we can do, I
3 understand that, but it is something that if we don't do,
4 then the problem just continues to exist. And what we
5 have is we have a law, and what happens out there, as we
6 all know in the common world, is that people ignore the
7 regulation or the enforcement of that because they feel
8 sympathetic in saying, well there's really nothing we can
9 do because we don't have the resources or what have you,
10 for any kind of example. So I would like to at least see
11 that take place.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
13 Eaton.

14 Mr. Medina.

15 BOARD MEMBER MEDINA: Yes. I think that it's
16 very timely that we're looking at this issue and that,
17 you know, as Mr. Eaton said, that we do need to take a
18 comprehensive review of this, both in regard to the
19 issues that have arisen and the actions that need to be
20 taken.

21 I was, as I read through the audit report I was
22 sort of taken aback at two statements that they made in
23 the audit report.

24 One, it said,

25 "Because the Board does not have an

1 understanding of the environmental impacts that
2 may result from allowing landfills to delay
3 closure, it does not know whether these
4 landfills are posing threats to public health
5 and safety and the environment."

6 And they follow that up with another statement,
7 "Since Board staff do not have a complete
8 understanding of the extent of the environmental
9 impacts that may result from delayed closure of
10 landfills, it is unknown to what extent the
11 unclosed landfills are posing threats to public
12 health and safety and the environment."

13 So I, I wonder as to the accuracy of those
14 statements, and given the, I think the knowledge and
15 background of our, some of our Board members and staff,
16 I, you know, I would have to challenge that statement.

17 But I do think that it is timely that we take a
18 look at the issues, the lack of coordination, the lack of
19 funding for some of these smaller landfills, and also the
20 sort of action that we need to take for those landfill
21 operators that do have the money but are allowing
22 trickling to go on.

23 So I'm prepared to take a close look at this and
24 to work with the other Board members to come up with some
25 sort of a plan of action on this.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you. Did
2 you wish to speak before our speaker, Mr. Paparian?

3 Go ahead.

4 BOARD MEMBER PAPARIAN: Yeah, I just wanted to
5 respond to Mr. Eaton. I mean I think, as you mentioned,
6 Madam Chair, that the issue of carrots and sticks and so
7 forth, carrots is coming up in item 35, and I think that
8 is an important issue to look at. And I certainly agree
9 with that regarding the federal laws and federal
10 preemptions and so forth.

11 I think that when we come back next month, if we
12 can have a description of what federal laws there are in
13 this area, and what, you know, we might not be allowed to
14 do as a result of those federal laws, I think that is an
15 important thing to look at.

16 And then I just can't, I just can't -- I want
17 to, I just want to say that the comment about beating up
18 on rural jurisdictions is not well taken, that is not my
19 intention at all.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
21 Paparian.

22 Larry Sweetser.

23 MR. SWEETSER: Good morning, Board members. I'm
24 Larry Sweetser of Sweetser and Associates on behalf of
25 the Environmental Services Joint Powers Authority, 21

1 member rural county.

2 And we do not feel beaten up yet.

3 BOARD CHAIR MOULTON-PATTERSON: Good, we don't
4 want you to.

5 MR. SWEETSER: So there's three issues in this
6 item that I wanted to bring out, some of them already.
7 But one was the closure plan extension issue. The other
8 was the grants or loan issue. And the other is the
9 trickling issue, or as I'm starting to call it the
10 tonnage challenged landfills.

11 On the first item on the closure plan extension,
12 we do support the Board review of the closure plan
13 extension deadlines, looking at those sites. But like
14 many other landfill requirements, there may be reasons
15 why that happens, and those should be looked into.

16 There could be delays in other agencies review
17 of the plans, there could be problems with data
18 collection, there could be the problems with the
19 resources that the county has to prepare those plans and
20 get them together.

21 And in many rural areas what we have to look at
22 before you go into closing small landfills at random is
23 there's a ripple effect that can happen with those too is
24 that, in addition to the cost of closing a landfill you'd
25 also have the cost of putting in some other mechanism or

1 infrastructure like a transfer station, and the cost of
2 those combined may make it prohibitive to close the
3 landfill at this time, hence slowly putting waste in
4 there to build up the funds to do so. That may not be
5 the case in all sites.

6 Also keep in mind that premature closure on a
7 landfill may be more expensive depending on what point in
8 the construction they're at. That could cost a lot more
9 for counties to close its landfill sooner and not later.
10 And that's something that needs to be incorporated into
11 there.

12 And if there are abuses and the Board does find
13 those, then by all means take the appropriate action,
14 nobody's asking that that not happen.

15 And Mr. Medina raised a few points about the
16 environmental issues on landfills. We would also
17 disagree with the audit report in that many of those
18 issues are known, either by the Board or by the Water
19 Board's, they do know what the state of those landfills
20 is. So there is a lot of information already out there
21 that they did not consider in the report.

22 On the second item with the loan program. We do
23 strongly support that. Some of our members have
24 benefitted from that program. Mr. Eaton raised a number
25 of good points. We'd libeling to see that program

1 brought back, resurrected.

2 There was a major problem with the program that
3 we pointed out at the hearing at the time was that that
4 program, the facility compliance loan program focused on
5 only those landfills that had a problem. And we have a
6 number of landfills that are honestly trying to get a lot
7 of these things done, I've been impressed with the
8 progress that rural counties have made in closing sites
9 and bringing them into compliance. But if one of those
10 sites that has been trying very hard and committed funds
11 to do so seeks a loan, they're not eligible under that
12 old program.

13 So maybe if we could incorporate that into a
14 future program, that would be a lot more helpful in
15 preventing a problem rather than waiting for one to occur
16 and then applying for funding.

17 The trickling issue is a major concern. The
18 blanket prohibition on small landfills is a problem. We
19 don't feel that the audit report actually looked beyond
20 the fact that small was bad. There are a lot of reasons
21 that can happen.

22 There's primarily, keep in mind that on these
23 small landfills, and some of the numbers I've looked at
24 already, it's over thirty percent of California is rural
25 areas, which is less than five percent of the waste

1 stream. And if anybody's traveled that distance you know
2 how far it is between communities. I mean trying to
3 enforce all the landfill to go to some of the, all the
4 small landfills to go to some of the larger sites just
5 isn't very affordable in many cases. There's a lot of
6 waste out there.

7 Also, keep in mind that many of the small
8 landfills, well a couple of the small landfills on the
9 list, at least when I've looked at the SWIS list, are for
10 private companies for their own waste. Some of the oil
11 companies, other industries utilize their own landfills,
12 and some of those are on the small list.

13 And one of the big things missing in those whole
14 discussion, and it was brought out already, is a
15 definition of trickling. Is trickling a one ton per day,
16 a ten ton per day, a hundred ton per day landfill?
17 Again, from a review of the SWIS list, over a third of
18 the landfills in California are less than a hundred tons
19 per day.

20 Another key point that the audit report missed
21 was that, are we calling trickling landfills those that
22 have dramatic decrease in tonnage, the ten percent number
23 that was used out there, suddenly dropping tonnage and
24 keeping it at a small level for whatever reason?

25 Or is trickling somebody that continually has

1 just a small amount of material over a period of time,
2 and that's all the tonnage they've had? They've always
3 been at that level and will always be at that kind of
4 level, there just isn't that much tonnage out there.
5 Should that be considered trickling or not? We wouldn't
6 think so, that addresses that community's needs.

7 The other part, the other reasons may be for
8 closure, or for looking at the low tonnage landfills,
9 some of them may legitimately be looking at extending
10 closure time. That may or may not be a problem depending
11 on circumstances.

12 But there's a lot of other reasons also for low
13 tonnage sites. Many counties desire to be self-
14 sufficient, they do not want to export their material to
15 another county or out of state. That's what happened
16 with a lot of the small rural counties is we had to go
17 out of state for some of the tonnage.

18 The other reasons are seasonal requirements.
19 Some of the counties are not able to go outside the
20 county. Modoc is an example, they haul to Nevada except
21 in the winter when the roads are impassable, they have to
22 handle the material in the county, otherwise they have no
23 option.

24 Some landfills may want to look at hibernating
25 their landfills in that case, which is not allowed under

1 regulation. You can't just put a landfill, put a cover
2 over for too long a period of time without being called
3 closed. You can't, you have to continually put waste in
4 there or otherwise you fall under the closure
5 regulations.

6 The other one is there's special wastes that are
7 not amenable to transport. There's certain materials
8 that transfer stations should not be handling, things
9 like dead animals are not something you want to put in a
10 transfer station and haul to another site. Many
11 landfills in the rural areas keep their landfills open to
12 handle dead animals, and at the same point if you're
13 going to put in that effort for keeping a landfill open
14 for small certain waste streams, you want to be able to
15 put other material in there, it just makes more economic
16 sense.

17 So dead animals, tree stumps, other types of
18 things are wastes that need to be handled without long
19 haul.

20 The reserve capacity is another issue. Some
21 landfills have exported for a while to another county and
22 felt that they wanted to come back to their own landfill.
23 Rather than opening up a new one, they just use the old
24 site.

25 So those are a number of reasons that need to be

1 incorporated that the audit report missed.

2 And with that, we just urge you not to go ahead,
3 and it sounds like we're on the right track to come back
4 with some draft regulations in May. We'll be glad to
5 work with you on that, on the details, but let's not just
6 close down landfills just because they're small.

7 Thank you.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
9 Sweetser.

10 BOARD MEMBER EATON: I have one other comment,
11 Madam Chair. I'd also like to know with regard to the
12 types of ownership of these landfills that the audit
13 report referred to, what is the percentage of public
14 versus private? Because there also lies perhaps a
15 potential way to solve some of the problems if it's
16 public or private.

17 My guess is that most of these are public
18 landfills, but I'd like to have that incorporated as well
19 just in terms of when we have the discussion as to what
20 percentage may or may not be.

21 Mr. Sweetser.

22 MR. SWEETSER: Yes. I did look at the SWIS list
23 on that because we've been curious also. And
24 predominantly they are local government landfills.

25 There are a number of small private landfills

1 open to the general public that are owned; and there are
2 some, as I mentioned, some small sites that are
3 exclusively only for that company's waste, a number of
4 them like that.

5 But predominantly, probably over sixty percent
6 of them are owned by the local government.

7 BOARD MEMBER EATON: Okay. Thank you.

8 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
9 you, Mr. Sweetser. Okay.

10 So do you feel you have enough direction to
11 proceed?

12 MS. NAUMAN: As Mr. Sweetser said, we really
13 have three items that are all related to the same issue.
14 So if you would like we could go on at least to the
15 discussion of item 34.

16 BOARD CHAIR MOULTON-PATTERSON: Okay.

17 MR. WALKER: Thank you. Scott Walker again,
18 Closure Remediation Branch.

19 Okay. The next finding of the audit report
20 includes the following statement:

21 "Currently neither the Board nor any other
22 entity serves as the coordinating agency, and
23 the Board has limited authority in directly
24 ensure that closure plans are submitted and
25 implemented as required."

1 Consequently, the Board believes that the
2 lack of coordination, consistency, and
3 cooperation with other agencies on certain
4 issues hinders effective closure activities."

5 Recommendation twelve of the report addresses
6 this finding by stating that the Board should,

7 "Modify its regulations to reestablish its
8 role as the coordinating agency for the review
9 and approval of closure plans."

10 The purpose of this item is to provide an
11 opportunity for direction regarding this recommendation.
12 And then again, as based on this direction, staff will
13 prepare an item for consideration of specific options to
14 address it.

15 And we have recommended some direction in terms
16 of modifying regulation. The consideration item for this
17 is also scheduled for May as with the last item.

18 Also enforcement issues, we're going to talk in
19 this item a little bit about the closure permit aspect
20 which may be amenable to regulation, but keep in mind
21 also that recommendation number ten is specific and to
22 closure -- and to enforcement that relates to this item.
23 So that will be a separate item that will be discussed at
24 the May Board meeting.

25 Closure and post closure plan process. Just

1 going to give you a real brief overview, and there is an
2 attachment in the item which gives a little more
3 information.

4 But closure and post closure maintenance plans
5 are required to ensure that solid waste landfills will be
6 closed and maintained in such a manner as to protect
7 public health and safety and the environment.

8 Board regulations governing the closure, post
9 closure plans and standards were established originally
10 in 1989. And they were significantly revised in July of
11 '97 as part of Assembly Bill 1220, and incorporated into
12 Title 27, California Code of Regulations.

13 These requirements implement the federal
14 municipal solid waste landfill closure, post closure
15 requirements, Subtitle D.

16 Preliminary closure, post closure plans are
17 required to be submitted with the initial application for
18 a permit, and are required to be revised and/or updated
19 at each permit review and revision.

20 The final plans are due two years prior to the
21 anticipated date of final receipt of waste. These plans
22 include cost estimates for closure, post closure that are
23 used to determine the amount of financial assurance
24 required to ensure that the landfill will be able to be
25 closed and maintained in the future.

1 The preliminary plans contain conceptual design
2 with enough detail in order to determine the
3 appropriateness and the estimated costs of closure and
4 post closure maintenance.

5 The final plans are more detailed, they provide
6 the final design plan specifications, and other aspects
7 necessary for the implementation.

8 The review and approval process for both
9 preliminary and final closure, post closure plans, it's a
10 two step process, basically paralleling the permit
11 process.

12 First is a completeness review followed by
13 adequacy review or approval part. The completeness is a
14 thirty day from submittal to determination. Adequacy is
15 120 days from the date of complete plan.

16 After the Water Board and the LEA have approved
17 the plans, the plans are required to be submitted to the
18 Board, and the Board has thirty days to approve the plans
19 or provide the operator with reasons for disapproval.

20 Changes brought on by AB 1220 remove the Board
21 from involvement until the very end of the process, and
22 it also did not establish a coordinating agency.
23 Previously the Board coordinated all of the closure plan,
24 all stages of the review and approval process previous to
25 AB 1220.

1 The closure, post closure plans play an
2 important role in the permit process. These cost
3 estimates, again they establish, that are established by
4 the plans provide the basis for financial assurances.

5 One of the specific reasons the Board may object
6 to a solid waste facility permit is inadequate financial
7 assurances for closure, post closure. Plans are required
8 to be complete but not approved for a permit application
9 to be considered. Because the Board -- or for the permit
10 application to be deemed complete by the LEA.

11 Because the Board is not involved in the
12 completeness review, it is very difficult for staff to
13 provide verification that the cost estimates are accurate
14 when permits are brought forward for consideration.

15 The thirty day Board timeline also restricts
16 approval to the delegated authority to the division, and
17 prevents potential consideration of approval at Board
18 meetings for the controversial plans that may or may not
19 come up.

20 We've also tracked some data on closure, post
21 closure plan approvals that may further support the need
22 for some changes in this process established by 1220.

23 There's approximately 300 solid waste landfills
24 requiring closure, post closure plans. About half have
25 approved plans; a hundred preliminary and 45 final.

1 There's been a significant reduction in the rate
2 of plan approval since the effective date of AB 1220
3 regulations, with 43 approved since the effective date of
4 July, '97, some of those under the older system carried
5 forward, and only 16 since September of 1999.

6 Potential regulatory fixes and conclusions.
7 Again, based on the Board direction, the regulatory
8 concept will be developed to require closure, post
9 closure plans to be fully approved for Board permit
10 consideration under certain circumstances, perhaps.

11 And in addition, reestablishing a coordinator of
12 the project -- process, such as the Board or other agency
13 as agreed upon by the Board. This could significantly
14 improve the record of closure, post closure plan review
15 process.

16 Also, allowing for the closure, post closure
17 permits. Which again we need to consult with legal staff
18 more on whether or not this is amenable to regulations.
19 We feel there is, there is some potential here, may also
20 provide some additional enforcement tools.

21 In conclusion, staff are recommending the Board
22 direct staff to prepare a regulatory concept for
23 consideration in May to address this recommendation.

24 And with that, staff will answer questions.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

1 Walker. Questions? Comments?

2 Mr. Paparian.

3 BOARD MEMBER PAPARIAN: Yeah, I think going
4 forward in the way you suggested and establishing a
5 coordinating agency role I think is an important one to
6 pursue, so go forth.

7 BOARD CHAIR MOULTON-PATTERSON: I would agree.
8 Thank you.

9 Okay. Where do you want to go next?

10 MS. NAUMAN: Well, while we're here perhaps we
11 should just go ahead and take item 35 since we've already
12 begun the discussion about a potential loan program.

13 BOARD CHAIR MOULTON-PATTERSON: Sounds good.

14 MS. NAUMAN: Item 35 is discussion of and
15 request for direction on Bureau of State Audits report
16 recommendation regarding loans and grants for landfill
17 closure. This is their recommendation number thirteen.

18 And this item, again, is for your discussion and
19 direction to us. We have the consideration item on this
20 recommendation scheduled for June, but based on the
21 discussion we're having this morning it may make more
22 sense to package all of this in your item for May.

23 The recommendation coming from the auditor reads
24 that we,

25 "Should seek legislation that will allow it

1 to offer loans or grants to landfill operators
2 owners in need of financial assistance to close
3 landfills."

4 And as we have discussed, the Board did have the
5 facility compliance loan program available, and made
6 loans to a number of facilities earlier this year.

7 In the development of that loan program you
8 established program criteria which, as Mr. Sweetser
9 indicated, required that the facility have a confirmed
10 non-compliance issue that had been ongoing.

11 And further, you set some priorities for funding
12 which put closure and post closure not outside the realm
13 of possibilities, but extremely low on the list. And in
14 fact, you did not fund any applications for closure, post
15 closure.

16 In our initial outreach on the program, there
17 were nine landfills that indicated some interest in loans
18 for closure, post closure in the amount of \$1.2 million,
19 and all nine of those facilities were located in rural
20 areas.

21 In staff's effort to try and get a handle on
22 what the possible interest might be in kind of order of
23 magnitude of what a program might look like, we went to
24 our own SWIS database and looked at solid waste
25 facilities that are permitted, active, and in rural areas

1 where the operator was using a trust fund, and did some
2 quick math that obviously needs some more refinement.
3 But just to give you a sense of order of magnitude, we
4 identified 54 landfills that would fit that criteria of
5 being permitted, active, in rural areas with a trust
6 fund. 49 of those were public facilities, and five of
7 them were private.

8 Total closure for those 54 sites is
9 approximately \$145 million. Those facilities currently
10 have about 49 and a half million dollars identified, set
11 aside for those sites.

12 Now clearly there's still time between now and
13 their projected closure date to continue to fill up that
14 trust fund. But if all of those facilities were deemed
15 to be ready for closure now, there would be a shortfall
16 of about 95 and a half million dollars to close all of
17 those landfills at a single point in time.

18 So that kind of gives you a sense of what's out
19 there in rural jurisdictions, and what the financial
20 challenge would be to assist them, either partially or
21 fully in generating sufficient revenues to close early.

22 So staff is looking for your direction with
23 respect to this recommendation from the auditor, and we
24 would suggest that you do direct us to pursue the
25 establishment of such a loan or grant program for

1 financial assistance for closure.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you. We
3 have speakers on this item. I think I'll go straight to
4 them if no one has comment.

5 Jim Heminger. Heminger. I keep putting an
6 extra syllable in there. Is Jim here?

7 MR. SWEETSER: He's not here, I just put in a
8 slip for me just to make sure, and I'll cover it very
9 quick.

10 BOARD CHAIR MOULTON-PATTERSON: Okay, Larry
11 Sweetser.

12 MR. SWEETSER: Larry Sweetser again, the
13 Environmental Services Joint Powers Authority.

14 I won't repeat what I mentioned earlier on the
15 loan program, I think that was pretty well, hopefully
16 well received as far as suggestions on implementing that.
17 I just ask that those be included in the comments on this
18 item too.

19 And again, we do support the concept of loans.

20 I'm going to divert just a second on this. With
21 the audit report when it came out, and I really do
22 appreciate, and all the counties appreciate the way the
23 Board has approached this whole system of review of the
24 audit. We feel that the audit missed a lot of the facts
25 behind a lot of the issues, and with that concern a lot

1 of our counties were concerned enough on this, in
2 addition to a letter that the JPA submitted a while back,
3 a number of the counties have drafted resolutions to
4 forward onto the legislature, because that's where many
5 of these recommendations may go.

6 And so with that concern in mind and
7 appreciative of the Board's position, I'll provide these
8 to staff to circulate to you all the resolutions that we
9 have from our counties. A few more will be coming and
10 they will be presented to the legislature.

11 But basically it's in support of the Board's
12 role, and identifying some of the issues critical to
13 rural counties.

14 Thank you.

15 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
16 you. All right.

17 Mr. Paparian.

18 BOARD MEMBER PAPARIAN: And Larry, you actually
19 might be able to help with this. Have you looked into
20 alternative sources of funding in addition to what we
21 might be able to come up with, whether any of the
22 pollution control funds or infrastructure bank funds.
23 The counties, I think, or the counties and cities have
24 the California Communities Fund.

25 MR. SWEETSER: Yes.

1 BOARD MEMBER PAPARIAN: Whether any of those
2 could be available, or whether we might be able to
3 leverage what we might be able to put out there with some
4 of these other available funds?

5 MR. SWEETSER: There are other funds out there,
6 and actually I wish John Whitaker from Trinity County was
7 here, he was applying for one of the compliance loans and
8 didn't get it because he has found other means of
9 financing a lot of his landfill activities.

10 Some of our other facilities are looking at
11 those too. So there are other pots out there to look at,
12 somewhat limited in scope. But we'd be glad to sit down
13 with you and go through those, and maybe bring John, he's
14 been amazing at finding other sources as well.

15 We'd be glad to sit down with you and go through
16 those other opportunities.

17 BOARD MEMBER PAPARIAN: Yeah, that's one thing
18 I'd like to do with staff as we move forward. And I'll
19 volunteer Kit from my office to help out as well to help
20 identify some of these sources and maybe check with some
21 of the places that have the money to see if it would be
22 appropriate to use it, or whether we could leverage our
23 funds by using some of their funds.

24 MR. SWEETSER: We would appreciate that. We'd
25 be glad to sit down with you.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
2 Sweetser.

3 MS. NAUMAN: Thank you.

4 BOARD CHAIR MOULTON-PATTERSON: So as I
5 mentioned before, you know, we would be looking into
6 different options for funding on a permanent or ongoing
7 basis legislatively, or however.

8 MS. NAUMAN: Thank you. And I think we have
9 your direction, and we'll be back next month with a
10 package to address your direction.

11 BOARD CHAIR MOULTON-PATTERSON: Okay. So would
12 you like to go to the permits since we're on this? Is
13 that 21 and 22?

14 MS. NAUMAN: That's correct. Item number 21 is
15 consideration of a revised solid waste facility permit
16 for the Benton landfill in Mono County.

17 MR. KENNEDY: Good morning, Madam Chair and
18 Board members. I'm Keith Kennedy with the Board's
19 Permitting and Inspection Branch.

20 Also here today for this item are Dennis Lampson
21 and Jim Goodloe of the Mono County local enforcement
22 agency, and Evan Nykirk, assistant director of the Mono
23 County Public Works Department.

24 The Benton landfill was last permitted in 1978.
25 The facility is owned and operated by the Mono County

1 Department of Public Works. The facility primarily
2 serves the town of Benton.

3 The proposed revised permit allows for the
4 following four major changes:

5 First, a decrease in the disposal tonnage from
6 364 tons per year to one hundred tons per year. Staff is
7 aware of the Board's concern with landfills that trickle
8 waste in order to postpone closure. I would like to take
9 this opportunity to explain how this landfill has been
10 utilized for waste management in Mono County.

11 The Benton landfill is used as an outlet for
12 construction and demolition waste, and for brush material
13 from public works projects, and for waste generated from
14 periodic cleanup days.

15 The majority of the municipal solid waste
16 generated in the community is taken to the Benton
17 transfer station located within a quarter mile of the
18 landfill.

19 Because of the size of the county, which is
20 three times the size of Sacramento County, it makes
21 greater economic sense to periodically bury this heavy,
22 bulky, and hard to handle waste rather than haul it to a
23 central landfill.

24 Even though a hundred tons per year seems
25 minuscule, this tonnage is proportionate with the

1 population of unincorporated Mono County, which is
2 approximately two people per square mile; and is also
3 proportionate with the amount of waste the landfill has
4 been accepting for the past several years.

5 The second major change is a decrease in the
6 hours of operation from 24 hours a day, 365 days per
7 year, to two days per week 7:00 a.m. to 6:30 p.m.

8 The third major change is an increase in the
9 closure date from 2045 to 2106. When the original permit
10 was issued 22 years ago, the closure date projection was
11 essentially an estimate by the county on how many
12 trenches could fit into the site boundary, and how much
13 waste each of the trenches would hold.

14 Since the area fill method is now utilized at
15 the landfill, the closure date was recalculated by an
16 independent engineering firm who determined that the
17 closure date should be extended an additional 61 years at
18 the requested rate of disposal.

19 And the final major change is the permit defines
20 the maximum elevation as ten feet above ground surface,
21 and the maximum depth as twenty feet below ground
22 surface. The original permit did not define the maximum
23 elevation or depth.

24 There have been no violations of state minimum
25 standards over the past twelve months at the Benton

1 landfill.

2 Board staff has determined that all the
3 requirements of the proposed permit have been fulfilled.

4 In conclusion, staff recommends that the Board
5 adopt Board resolution number 2001-104 concurring with
6 the issuance of the solid waste facility permit number
7 26-AA-0006.

8 This concludes staff's presentation, and I'd be
9 happy to answer any questions.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.
11 Questions?

12 Mr. Eaton.

13 BOARD MEMBER EATON: I'd be happy if there's no
14 questions to move Resolution 2001-104 relating to
15 consideration of the revised solid waste facility permit
16 for the Benton Landfill in Mono County.

17 BOARD MEMBER MEDINA: Second.

18 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
19 Eaton and Mr. Medina.

20 Moved by Mr. Eaton, seconded by Mr. Medina.
21 Please call the roll.

22 BOARD SECRETARY VILLA: Eaton.

23 BOARD MEMBER EATON: Aye.

24 BOARD SECRETARY VILLA: Medina.

25 BOARD MEMBER MEDINA: Aye.

1 BOARD SECRETARY VILLA: Paparian.

2 BOARD MEMBER PAPARIAN: Aye.

3 BOARD SECRETARY VILLA: Roberti.

4 (No responsee.)

5 BOARD SECRETARY VILLA: Moulton-Patterson.

6 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.

7 Item number 22, motion passes.

8 MS. NAUMAN: Item 22 is consideration of a
9 revised solid waste facility permit for the Chalfant
10 Landfill also in Mono County, and Keith will make this
11 presentation.

12 MR. KENNEDY: As with the Benton landfill, the
13 Chalfant landfill was last permitted in 1978. The
14 facility is owned and operated by Mono County Department
15 of Public Works. The facility primarily serves the town
16 of Chalfant. The landfill has almost the identical
17 permit provisions as the Benton facility.

18 The proposed revised permit allows for the
19 following four major changes:

20 First, a decrease in the disposal tonnage from
21 364 tons per year to one hundred tons per year. Like the
22 Benton landfill, the Chalfant landfill is used primarily
23 as an outlet for construction and demolition waste and
24 brush material from public works projects, as well as
25 waste generated from periodic cleanup days.

1 The majority of the municipal solid waste
2 generated at the community -- in the community is taken
3 to the Chalfant transfer station, a separately permitted
4 facility located within the landfill boundaries.

5 Again it makes greater economic sense to
6 periodically bury this heavy, bulky, and hard to handle
7 waste rather than truck it to a central landfill.

8 The second change is a decrease in the hours of
9 operation from 24 hours per day, 365 days per year, to
10 two days per week 7:00 a.m. to 6:30 p.m.

11 The third change is an increase in the closure
12 dates of 2045 to 2106. As with the Benton facility, when
13 the original permit was issued 22 years ago, the county
14 essentially saw the trenches, calculated how much they'd
15 hold, but that was inaccurate so they had an independent
16 engineering firm recalculate it and they came up, they
17 extended the closure date an additional 42 years.

18 And the final major change is the permit defines
19 the maximum elevation as ten feet above ground surface,
20 and the maximum depth as twenty feet below ground
21 surface.

22 There have been no violations of state minimum
23 standards over the past twelve months at the Chalfant
24 landfill.

25 Board staff has determined that all the

1 requirements of the proposed permit have been fulfilled.

2 In conclusion, staff recommends that the Board
3 adopt Board resolution number 2001-105 concurring with
4 the issuance of the solid waste facility permit number
5 26-AA-0005.

6 This concludes my presentation.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you very
8 much.

9 Mr. Eaton.

10 BOARD MEMBER EATON: Madam Chair, I'd like to
11 move resolution 2001-105 relating to consideration and
12 approval of the revised solid waste facility permit for
13 the Chalfant landfill in Mono County.

14 BOARD MEMBER MEDINA: Second.

15 BOARD CHAIR MOULTON-PATTERSON: Moved by Mr.
16 Eaton, seconded by Mr. Medina.

17 Please call the roll.

18 BOARD SECRETARY VILLA: Eaton.

19 BOARD MEMBER EATON: Aye.

20 BOARD SECRETARY VILLA: Medina.

21 BOARD MEMBER MEDINA: Aye.

22 BOARD SECRETARY VILLA: Paparian.

23 BOARD MEMBER PAPARIAN: Aye.

24 BOARD SECRETARY VILLA: Roberti.

25 (No response.)

1 BOARD SECRETARY VILLA: Moulton-Patterson.

2 BOARD CHAIR MOULTON-PATTERSON: Aye.

3 MS. NAUMAN: Madam Chair, before we move off of
4 this, we usually either celebrate or tease staff on their
5 first presentation before the Board, and I'd like to
6 compliment Keith, that was, he's given his first
7 presentation before the Board, and also --

8 BOARD CHAIR MOULTON-PATTERSON: He did a great
9 job. Thank you very much. Very good.

10 MS. NAUMAN: A tremendous amount of work has
11 gone into bringing these permits from Mono County
12 forward, and we just encourage the LEA and, of course,
13 our own staff to keep up the hard work to get them all
14 done.

15 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
16 you. And with that, I think we'll take a short
17 break, about ten minutes.

18 (Thereupon there was a brief recess.)

19 BOARD CHAIR MOULTON-PATTERSON: We'll do
20 ex-parte, and then the roll was left open on a few items
21 for Senator Roberti.

22 Mr. Eaton, ex-parte?

23 BOARD MEMBER EATON: Just two. A quick hello to
24 Larry Sweetser, and to his representative from Mono
25 County.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you.

2 Mr. Medina.

3 BOARD MEMBER MEDINA: None to report.

4 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

5 BOARD MEMBER PAPARIAN: Yes, Denise Delmatier

6 regarding the putrescible regulations, and also Larry

7 Sweetser and Evan Nykirk from Mono County following up on

8 the Mono County items.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you.

10 Senator Roberti?

11 BOARD MEMBER ROBERTI: No ex-parte.

12 BOARD CHAIR MOULTON-PATTERSON: Okay. And I

13 have none. We left the roll open on 19, 20, 26, and then

14 21 and 22. So it's 19, 20, 21, 22, and 26, Senator

15 Roberti.

16 BOARD MEMBER ROBERTI: Aye.

17 BOARD CHAIR MOULTON-PATTERSON: Aye on all those

18 items listed. Thank you.

19 Ms. Nauman.

20 MS. NAUMAN: Thank you. Next item, I'd like to

21 go to items 28 and 29. These are two regulation packages

22 that are quite interrelated. Item 28, discussion of

23 previous Board action and consideration of adoption of

24 proposed emergency regulations for the transfer

25 processing of putrescible wastes.

1 Item 29 is discussion and consideration of
2 approval to formally notice proposed regulations for
3 compostable materials handling operations and facilities.

4 The Board has seen both of these packages at
5 prior Board meetings. The composting regulations came
6 before you at the February meeting. At that time we
7 reviewed with you the informal process that we had gone
8 through and were requesting that we move forward with the
9 formal process.

10 You directed us at that time to continue to work
11 with the stakeholders on some issues, which we have
12 continued to do.

13 We have before you a slide that has two parts on
14 it that relate to these two packages. And while I'm
15 talking about the composting package, let me just walk
16 you through this real quickly, and I don't know if you've
17 seen this format before.

18 Just for purposes of kind of the historical
19 perspective on where we're coming from and why we're
20 proposing to do a regulation package on composting,
21 you'll see in 1995 that there were composting regulations
22 in place, but there were a couple of key items that were
23 not included within the scope of that original set of
24 regulations.

25 And that included the whole concept of

1 inadvertent composting; those kinds of activities where
2 it was not intended, it was not a real business, but
3 there was actual composting going on. And those kinds of
4 activities were left outside of the regulatory package.

5 Chipping and grinding operations were also not
6 included at that time. A couple years later, in 1997,
7 there was another attempt at finetuning the composting
8 regulations, and at this point we did bring in the
9 inadvertent composting activities and partially brought
10 in chipping and grinding operations.

11 They were brought in in a way where they were
12 not required to have a permit, but they were required to
13 comply with state minimum standards and allow the
14 opportunity for the LEA to have oversight of the
15 operations but didn't bring them into the permitted
16 tiers.

17 The key here is the fact that we considered
18 composting to occur if the materials were on site longer
19 than seven days.

20 Since 1997 we have continued to hear a lot from
21 LEA's about chipping and grinding operations, and just
22 the new kinds of operations coming on line that were
23 causing them some concerns.

24 And a decision was made several years ago,
25 probably around 1998 or nine, I believe, to begin a new

1 package to again try to finetune the composting
2 regulations.

3 Some of the things that we were trying to do in
4 that package were listed on the slide under reasons. One
5 was specifically to slot chipping and grinding
6 operations.

7 We're hearing a lot from LEA's about the step we
8 took in 1997 didn't go far enough, that in addition to
9 bringing them under state minimum standards we really
10 needed to bring them into a permitting tier so that the
11 LEA's could have more enforcement authority over those
12 operations.

13 We also were attempting to do some, what we're
14 calling tier simplification. Really what that means is
15 trying to take these types of activities and simplify by
16 putting them at one or the other end of the spectrum on
17 tiers.

18 As you know, we have a number of tiers in our
19 normal tiering process that we then apply on a case by
20 case basis to certain types of materials. And you'll be
21 hearing this morning how we have tried to simplify it so
22 that these kinds of operations are either on the very low
23 end or all the way to a full permit, and not a lot in
24 between.

25 And a third reason, which is very key, is this

1 whole 2001 proposal which began, as I said, a number of
2 years ago, really stemmed from the 1997 strategic plan
3 where the Board adopted as one of the major goal areas to
4 promote the management of organic materials in a way to
5 promote diversion and market development.

6 The process occurred through a cross-divisional
7 team that was set up after the strategic plan was
8 adopted, between the Permitting and Enforcement Division
9 and the Waste Reduction and Market Development Division.
10 And one of their major tasks through that greening team
11 was to develop this set of regulations.

12 You'll see within the box that we've brought in,
13 proposing to bring in chipping and grinding to the tiers.

14 And also another key change that we'll talk
15 about in a little more detail is changing that seven day
16 threshold to a 48 hour threshold.

17 The transfer processing regs, on the other hand,
18 have been before the Board as a proposed emergency set of
19 regulations stemming from the Board's decision in August
20 of last year relative to the Cal Biomass appeal coming
21 out of San Bernardino County. The issue there was
22 whether that proposed facility really was a recycling
23 center under the transfer processing regs, or a transfer
24 processing facility.

25 You directed staff in August to begin a

1 regulatory development process to bring the type of
2 facility that Cal Biomass proposed into our regulatory
3 structure as a permitted facility.

4 And in January, after several months of working
5 with stakeholders, we brought before you the working
6 group's suggestions and options for your consideration.
7 At that time you gave us direction on development of the
8 package, which was then incorporated into an item which
9 we brought Board you at the February meeting at the same
10 time you were seeing the composting regulations.

11 At that time staff had suggested, and the Board
12 agreed, to include within the definition of putrescible
13 waste specific reference to grass clippings.

14 The second major change or development at that
15 time was that the Board added another component to the
16 two part test, which we'll talk about in more detail this
17 morning, and that was to specify no greater than one
18 percent putrescible in order to meet the test to be a
19 recycling center.

20 During the discussion of both of these packages
21 in February, the Board raised some questions about what
22 types of facilities that were operating currently might
23 be brought in under the regulatory umbrella if either or
24 both of these packages were adopted.

25 And also, you spent some time talking about the

1 timing that would apply to such facilities that were
2 already operating; but if they were brought into the
3 regulatory scheme and needed to have a permit to operate,
4 how would we make that work so they could continue the
5 operation while they were trying to come under compliance
6 with the regulations requiring permit.

7 We've done some research on both of those
8 questions and we'll be addressing those this morning.

9 At the February meeting the Board gave us
10 direction to move forward with the emergency regulations
11 on a transfer and processing side. Subsequent to that
12 there's a number of questions raised about what the
13 operational impact of the proposed transfer and
14 processing regs might be on some operations, and the
15 relationship with these two packages.

16 As a result, staff is bringing both of these
17 packages back before you this morning to provide an
18 opportunity to have some further discussion about the
19 interrelationship of these two packages, and to give you
20 an opportunity to further discuss any of the policy
21 issues related to either of the packages.

22 We know that there is some significant public
23 comment that you'll hear this morning. We've received
24 some letters that have raised some issues, and have even
25 suggested that perhaps we're not ready to move forward

1 with these packages at this time.

2 I'd like to have the opportunity to have the
3 staff go through both of these packages with you and
4 review the options, and we do have a recommendation on
5 both of them.

6 Bob Holmes will be going through the composting
7 regulations highlighting the key issues, the options that
8 staff would suggest to the Board for next steps, and our
9 recommendation. And Kevin Taylor from the Markets
10 Division and Jeff Watson from P&E will do the same with
11 respect to the transfer processing regulations.

12 They told me they're doing it in opposite,
13 okay. Then after that we'll be ready to answer
14 questions.

15 Soon you will, I assume you'll have some
16 testimony, and then you can consider providing direction.

17 So with that, I will turn it over to Bob.

18 MR. HOLMES: Good morning. One other purpose of
19 this schematic besides showing you some of the history of
20 the two packages is to show you the interrelationship of
21 the two packages, and we have had some questions about
22 how that interaction is.

23 The double headed arrow that's down, two-thirds
24 of the way down on the line between them indicates, and
25 it may be difficult to read, but it says, "Transfer

1 processing regulations do not apply to any operation or
2 facility regulated elsewhere." Right in the scope and
3 applicability of the processing and transfer regs we have
4 that regulatory language.

5 So, if you are regulated by the composting
6 regulations, then the transfer and processing regulations
7 do not apply, so you are not subject to both sets of
8 regulations.

9 I mentioned that currently we have a seven day
10 trigger in the composting regulations, meaning that if
11 the material is stored on site greater than seven days
12 you're subject to the regulations; less than seven days,
13 you would not be subject to those regulations. So that
14 is really the decision point between the two packages.

15 As proposed, we would drop that seven days down
16 to 48 hours, so the decision is material on site less
17 than 48 hours you won't be subject to the transfer and
18 processing regulations on the right-hand side of this
19 slide. If it's greater than 48 hours, you would be
20 subject to the compostable material regulations, the left
21 hand part of this slide.

22 And that really is due to the fact that whether
23 or not you were intending to compost or you were calling
24 yourself a composter or something else, material left on
25 site for that period of time undergoes biological

1 decomposition just like any other material, especially if
2 it's been sitting around prior to being picked up and
3 delivered to that site in the first place. Therefore,
4 the environmental indicators or the environmental
5 concerns with that material are the same regardless of
6 what you call it.

7 Therefore, material that's on site greater than
8 48 hours we want to regulate as a compost facility.
9 Material on site less than that we feel logically is not
10 a compost facility, but rather a transfer station, hence
11 the logic behind regulating them with different sets of
12 standards.

13 Okay. So I'm going to talk about the transfer
14 processing side of the equation and the putrescible
15 waste, including putrescible waste in those regulations.

16 Once you've decided that the material is on site
17 less than 48 hours, you look to the transfer processing
18 regulations to figure out how they might apply to you.
19 The first thing you might see is a list of exceptions
20 listed here on this slide. These are all existing
21 exceptions that the Board put in place in '97 with the
22 exception of the underlined one there, regional produce
23 distribution center.

24 That would be added with your action on the
25 emergency regs, and that applies to the haul back

1 situation from grocery stores. The grocery products that
2 are not, do not meet the quality for sale to the public
3 that are hauled back on the same trucks that haul the
4 fresh produce in, no processing would occur there, it's
5 just the direct transportation back. We thought that's a
6 good service to be providing, and would make them an
7 additional exception to these regulations so the
8 regulations would not apply to them.

9 The exception of particular interest to us and
10 have been over the deliberations of this emergency
11 package is the exception for recycling center down at the
12 bottom there which is where we have the two part test
13 housed in regulation.

14 With your action in February we added an
15 additional part to the two part test. And I've been
16 avoiding calling it a three part test because it's not
17 truly a three part test, it's really a part one and a two
18 part, 2A and a 2B if you will.

19 So now the decision is, is material on site less
20 than 48 hours? Or the question as posed on this flow
21 chart on the right, "Material on site greater than 48
22 hours?" No. Okay. So you look to the transfer and
23 processing regulations to see if you're regulated.

24 The first part of the test, "Is it source
25 separated?" No, you fail, you are regulated under the

1 transfer and processing regulations.

2 If you pass the first part of the test you go
3 now to the dual second part of the test. You have to
4 meet both parts of this test in order to pass. So you
5 have to be, number one or 2A there, less than ten percent
6 residual and less than one percent putrescible.

7 There's been the, the way that the language came
8 out there has been some ambiguity with respect to what
9 does the one percent apply to?

10 If I draw your attention to attachment one of
11 agenda item 28 where the actual language is in
12 regulation, page 28-12 of your package, page eight of the
13 item, starting with line two,

14 "The residual amount of putrescible wastes
15 in this material shall be less than one percent
16 of the amount of separated for reuse material
17 received by weight."

18 The intent is that you are measuring one percent
19 of the total amount received, not one percent of the ten
20 percent. That language could stand to be clarified if we
21 continue with this language. So we would alter that
22 probably by saying the residual amount of putrescible
23 waste in the total amount of or in the separated for
24 reuse material received shall not exceed one percent so
25 that that's clear. Okay.

1 So just to recap then. You have to meet both
2 parts of the two part, of the second part now to pass the
3 test to be considered a recycling center, which is an
4 exception to the regulations. Recycling centers are not
5 subject to the transfer processing regulations.

6 The key issues that we want to --

7 BOARD MEMBER ROBERTI: One moment, please.

8 Madam Chair.

9 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

10 BOARD MEMBER ROBERTI: Not in the desire of
11 cutting one off, I'm dealing with things this way so be
12 it, but it, I understand that the pending problem
13 regarding putrescibles, regarding the company Cal Biomass
14 is no longer pressing. And if that is the case, there is
15 no urgency, and probably it would be preferable that we
16 then go through the lengthy regulatory, normal regulatory
17 process in coming up with these regulations rather than
18 the emergency process. It gives us more time to work out
19 the glitches and the details.

20 Last week, or two weeks ago rather, I was in Los
21 Angeles where they had some specific problems with the
22 emergency regs, whether they're right or wrong, should
23 probably give them a little bit of time to address our
24 definitions.

25 That's just my thought. And not to say you

1 haven't done a good job on this, but I think just to
2 consolidate our work, work has been done on the
3 emergency, with the normal regs that are going to be
4 coming up in due time because there is no pressing
5 problem at the moment.

6 Now if I'm wrong or if other members feel
7 differently, I'm glad to accede.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you. That
9 question has come up in our office, Senator Roberti, as
10 to whether or not we should go to the emergency regs or
11 the more formal. And I'd like the staff to respond. And
12 we do have a lot of speakers today on this item.

13 MR. HOLMES: There are other sites now that
14 we've learned about as a result of this action that, you
15 know, there may be an impact from, but --

16 BOARD MEMBER ROBERTI: Yeah.

17 MS. NAUMAN: While there may be other facilities
18 or operations that could come in, it does raise the
19 question of the timing of actual permit issuance.

20 If we, as you're suggesting, decided not to move
21 forward with the emergency regulations, and instead did a
22 regular regulatory package, we would then begin again the
23 informal process. Hopefully it wouldn't be as long as it
24 normally is because we've done a lot of work already.

25 Then we would move into the formal process, the

1 45 day for review, come back to you for adoption, go to
2 the Office of Administrative Law.

3 I would guess it would probably be somewhere
4 between around eighteen months before you would actually
5 have facilities permitted, and it may be it takes us six,
6 eight, ten months to get the regulations in place. And
7 then I think you've always had an interest in providing
8 some kind of hiatus, if you will, for facilities to then
9 actually get their permits, so you may be looking at
10 upwards of two years.

11 BOARD MEMBER ROBERTI: So what I hear is that
12 there's the possibility of one of these other facilities
13 that will be coming up --

14 MS. NAUMAN: Well, there are facilities out
15 there that would come under this umbrella, the question
16 is do you want to wait up to 24 months to have them
17 permitted, or do you want to do something? If that is
18 not acceptable to you, another thought we have, and we'll
19 move forward to that discussion, is perhaps you would
20 want to do what we did with the composting regulations,
21 if you remember with chipping and grinding, where instead
22 of bringing them all the way into the permit tiers
23 initially just through emergency regulations, you could
24 bring them in under state minimum standards, then pursue
25 the permit regulation package to actually slop them into

1 the permit tiers.

2 So you have actually three options:

3 Move forward with the emergency regulations;

4 Move to the other extreme and just move forward
5 with the adoption or development of a full set, of a
6 permanent set of regulations;

7 Or this in-between stuff to bring those that we
8 know are out there that are likely to come under the
9 regulatory umbrella, to come in and a halfway, as we did
10 with chipping and grinding, and then ultimately through
11 the permit process.

12 BOARD CHAIR MOULTON-PATTERSON: Okay. I hear
13 you. There are other facilities out there.

14 BOARD MEMBER ROBERTI: So maybe your middle
15 ground solution is a good one. So fine, I'll continue
16 listening to your presentation, that's very good.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you,
18 Senator Roberti.

19 MR. HOLMES: I'm going to cut right to this
20 analysis and go straight to your options.

21 If we do see that we want to go back to an
22 emergency regulation package, we might need to circle
23 back a little bit.

24 This analysis here that the slide depicts is a
25 result of a survey that we did with our LEA's, and also

1 with some direct contact with the facilities themselves
2 and/or the jurisdiction. We had about a 30 percent
3 return rate on the LEAs survey, lots of caveats when they
4 responded, because most of these sites are not currently
5 regulated, therefore they don't have any reason to
6 collect data on them.

7 So these seven facilities represent just what we
8 know of with some certainty. There may be an order of
9 magnitude as high of an order of magnitude number more
10 than that, but this shows generally the location, whether
11 it's a public or privately operated, why they are subject
12 to the regulations, and the right hand column is the
13 amount of time estimated to get all their permits in
14 order.

15 And the reason this is important is because if
16 we were to go forward with an emergency rulemaking, we
17 don't expect that OAL will be very favorable us asking
18 for, finding an emergency but delaying the effective date
19 of that, you know, 24 months in order to let these sites
20 get their permits in order.

21 Okay. So as far as your options then, and Julie
22 just ran through them:

23 Number one we see, we take no action, in which
24 case your resolution, your action in February as depicted
25 in resolution 2001-51 would stand, and that's the

1 emergency regs that you adopted in February.

2 Number two would be to modify those regs and
3 readopt a new resolution, or there is one in your package
4 and that will supercede 2001-51.

5 Or other, which is to say we don't need
6 emergency regulations, let's undertake a regular
7 rulemaking which would allow, you know, folks to come to
8 the table and discuss the outstanding issues. And that
9 would also supercede 51.

10 Staff's recommendation is, all things
11 considered, option three, to undertake regular
12 rulemaking.

13 Senator Roberti referred to the Cal Biomass
14 facility in San Bernardino. That facility is no longer
15 pursuing permits in that location, therefore, do we still
16 have the urgency that we thought we had back then?

17 We have the outstanding issues to resolve, we
18 skipped over those, but we have the definition of
19 putrescible wastes and the revised two part test that
20 contains that one percent, and the delayed effective date
21 that I mentioned.

22 Is it really a viable mechanism to use an
23 emergency regulation in this case where it's going to
24 take operators up to 24 months to get permits?

25 If this is the, the downside to this is that

1 there would be no regulation from the Board for sites
2 that are currently operational, you know, until we get
3 those regs completed, which could be up to, you know, 18
4 to 24 months. That just means there's no regulation by
5 the Board.

6 There are some arguments that there are
7 certainly regulation at the local level, either through
8 land use authority or other, so it's not a complete void
9 of regulation, but there would just be no LEA or Board
10 oversight.

11 MS. NAUMAN: With those three options before
12 you, perhaps you want to take some public comment in
13 order to come to closure on this package and then move on
14 to the other one.

15 BOARD CHAIR MOULTON-PATTERSON: Any questions
16 before I go to the public comments?

17 We have quite a few.

18 BOARD MEMBER EATON: I just have just one.

19 BOARD CHAIR MOULTON-PATTERSON: Excuse me.

20 BOARD MEMBER EATON: Could you give us some
21 indication as to what these four facilities or any future
22 facilities that may try and start up these types of
23 operations that would not be subject to regulation at the
24 state level, but may or may not be at the local level,
25 have an impact on the public's health and safety? What,

1 I mean have you looked at what that impact is to help us
2 realize -- you've obviously gone forward on an emergency
3 basis, and the basis for that was --

4 MS. NAUMAN: Was the Board's determination that
5 there were health, safety, and environmental protection
6 reasons.

7 BOARD MEMBER EATON: And what were those
8 reasons?

9 MS. NAUMAN: Odors, vectors, and that at the
10 local level you're not working under Board regulations
11 and state minimum standards, you're pretty much left with
12 code enforcement or nuisance abatement processes which
13 certainly don't have the same strength as our regulations
14 would have.

15 BOARD MEMBER EATON: Thank you.

16 BOARD CHAIR MOULTON-PATTERSON: Ms. Nauman, why
17 would this take as long as a regular regulation package?
18 Don't we already have some draft regulations that have
19 gone through some review, so would it still take as long?

20 MS. NAUMAN: What I'm suggesting is that we may
21 be able to shorten our traditional informal period, but
22 we would still need to go through filing with the Office
23 of Administrative Law, starting the 45 day review,
24 depending on comments that came back you might do a
25 multiple fifteen day comment periods before formal

1 adoption.

2 With emergency regulations they're effective
3 within thirty days after the Office of Administrative
4 Law, they have thirty days to review once you file. So
5 emergency regulations are certainly faster.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you. And
7 we're going to go to our public comments. I might remind
8 the audience that we do have a lot of comments on this
9 item and item 29, so if you could be as concise as
10 possible we'd really appreciate it.

11 And we'll start with Denise Delmatier.

12 MS. DELMATIER: Madam Chair, Denise Delmatier
13 with NorCal Waste Systems. I'm happy to be here this
14 morning.

15 To be quite concise, we've dealt with this issue
16 for several years as previous Board members and existing
17 Board members are well aware. It's not a new issue.
18 We've debated it thoroughly over and over and over
19 again. We think that the action taken by the Board in
20 February was appropriate in adopting the emergency
21 regulations.

22 There has since then come to light one minor
23 issue with the emergency regulations, and that is the
24 inclusion of the reference to grass clippings in the
25 definition of putrescible waste.

1 We would encourage adoption of the emergency
2 regulations as proposed today with the deletion of the
3 reference to the two words "grass clippings," but that we
4 believed the emergency regulation package is appropriate
5 and ready to go forward today.

6 And we would urge your support of the emergency
7 regulation package as proposed today.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
9 Delmatier.

10 George Nakamura, Contra Costa LEA and EAC.

11 MR. NAKAMURA: I'm George Nakamura, Contra Costa
12 LEA and vice chair of the EAC.

13 Basically the comments that I'd like to present
14 before you are that we do definitely concur with regards
15 to option number three. The areas of question with
16 regards to the definition and the one percent portion of
17 the two part test, which basically puts LEA's in a
18 position of decision by percentage, which if you have,
19 you know, like L.A. County versus a smaller rural county,
20 that one percent makes a large difference.

21 So basically those are just the comments that I
22 was forwarding to you from both Contra Costa County and
23 assorted members of the EAC.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you very
25 much. Karen Coca, City of L.A., Los Angeles.

1 MS. COCA: Good morning, and I want to say that
2 I appreciate the Board bringing this item back so that we
3 could have some further discussion. And I'll try to be
4 brief, but there's a couple of things that were brought
5 up that I want to deal with.

6 First of all, we want to support the staff in
7 their recommendation. We think that this needs to go
8 through the normal rulemaking process. Unfortunately,
9 these processes are extensive, but that's because you're
10 going out looking for comment and actually doing a
11 thorough examination of the impacts.

12 We do want to reexamine both the putrescible
13 waste definition and the two part test. I think that on
14 further examination there are at least six or seven other
15 facilities that would be brought into this structure and
16 not be considered recycling centers that I know of
17 personally, along with the ones that we already brought
18 up, and that's just in L.A. County.

19 I think there's other recycling centers that we
20 have to discuss how this one percent test would be
21 applied and I don't think that, you know, we're going to
22 be able to do that in this Board meeting. So I would
23 suggest option three.

24 The only other issue that I want to speak to is
25 the local enforcement or lack thereof. We have a very

1 strong local enforcement area in L.A. We have operating
2 standards for composting and yard trimmings facilities
3 that are enforced by building and safety. And not only
4 does our building and safety staff have the authority to
5 cite facilities, they can go out and shut one down if
6 it's creating nuisances.

7 So at the local level we have very strong
8 enforcement capabilities. So I just had to take
9 exception with that one particular remark.

10 Also, for other items such as odors we have our
11 local AQMD. We have other areas that people can go to if
12 they have problems. So I don't think that there is, as
13 Bob said, a vacuum here as far as regulations. I do
14 think we need to be prudent and take the time to examine
15 these things.

16 Thank you.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you.

18 Paul Ryan, Inland Empire Disposal Association.

19 MR. RYAN: Honorable chair and Board members,
20 this is a particular item that is of keen interest to me
21 of my past history. I regret the day that I retired
22 before this item came up to you folks because it never
23 would have happened.

24 When I've talked to the local LEA, my old staff,
25 and I disagreed with the approach that they used for

1 California Biomass then, and I disagree with the approach
2 that's being used now.

3 What I'm referring to is both the LEA and the
4 Environmental Health Department; one, when they don't
5 have regulations under Title 14, Title 27, or the Public
6 Resources Code, there's a much higher set of codes that
7 work very well in these situations, and that's the Public
8 Health Code, and also the health provisions at the local
9 level.

10 And I find that in this situation, had I been
11 there I would have taken care of business locally and you
12 wouldn't have had to address this issue.

13 Albeit, I think this is, with the putrescibles
14 and the food waste processing, this is an area that goes
15 beyond just the immediate needs of what is presented
16 here, both in the terms of extending markets or taking
17 care of particular problems, and we have to recognize
18 that food waste can become a very serious public health
19 nuisance and should be regulated differentially.

20 With that, I think it's very important and I
21 would ask that the Board look at, carefully at option
22 number two with the modifications as expressed by
23 removing the glass -- grass clippings, and proceed with
24 the definition for putrescibles as was recommended
25 earlier.

1 Again, I think this is a very important issue.

2 I think there is some urgency, and I would hate to see us
3 delay this issue and move it into neverland until final
4 regulations can be made.

5 Thank you.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
7 Ryan.

8 Matt Cotton representing Community Recycling.

9 MR. COTTON: Good morning, Madam Chair, members
10 of the Board. Matt Cotton representing Community
11 Recycling.

12 We unabashedly operate one of the most
13 successful commercial food waste diversion programs in
14 the state. Some of you are familiar with that. They
15 take produce waste from regional terminals and are
16 diverting that, in again, one of the most successful food
17 waste diversion programs in this country, if not in
18 California, so it's a great program.

19 Clearly the amount and disparate types of
20 testimony you're going to hear today reflects the broad
21 perspective of technical issues which need to be resolved
22 prior to implementing any final reg package. We've
23 looked at this a couple of times and tried to resolve it,
24 we have tried to resolve it amongst ourselves.

25 What I meant to say, I agree with a lot of what

1 Bob's comments, Bob's comments. We need to resolve a lot
2 of technical issues prior to implementing final
3 regulations so that we get it right.

4 I don't believe there's an immediate threat to
5 public health and safety that would be cured through
6 emergency regs.

7 I believe, perhaps, and correct me if I'm wrong,
8 Bob, actually you misinterpreted the Senator's question
9 which was are the facilities like the Cal Biomass
10 facility about to come forward that would necessitate an
11 emergency rulemaking process. I don't believe that there
12 are.

13 Are there facilities that would be subject to
14 these emergency regs because of the green waste, one
15 percent putrescible, that's the list I think you
16 presented. And I think there would be.

17 Clearly we would strongly urge the Board to
18 accept staff's recommendation number three to pursue a
19 normal regulation process.

20 Specifically, I think the disconnect here that
21 I'm seeing is between food waste and putrescible versus
22 green waste. The definition of residual as stated in the
23 February emergency regulations would include transferring
24 to, chipping and grinding to compost and to
25 transformation or biomass. That would encompass a large

1 number of facilities, I think far more than the six or
2 eight that Bob listed.

3 And I think, finally to end, I'd certainly
4 continue to examine produce distribution centers
5 regardless of which way you go.

6 And I thank you for your time.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you. Don
8 Gamblin, NorCal Waste Systems.

9 MR. GAMBELIN: Good morning, a couple of
10 points. I just, a couple of people have touched on this
11 in the urgency, and of course Cal Biomass has gone away,
12 but let's not turn a blind eye toward what is going on in
13 California statewide.

14 I do not know of one city right now that is not
15 talking about diverting a significant amount of organics
16 in order to comply with the fifty percent diversion. And
17 right now there is no regulatory structure that is clear
18 and defined under which they operate.

19 So for option three I wouldn't say the urgency
20 has resided, I would say that it's gone the other way.
21 Over the past year there has developed an even greater
22 urgency for regulations at this time.

23 As far as technical issues being resolved and,
24 or being unresolved, either way, it's not real difficult
25 to tell if you've got one percent putrescible waste in a

1 pile. All of the LEA's are trained health professionals,
2 it's pretty easy to make a determination on what is
3 appropriately regulated and what is not.

4 Essentially you have a choice today, and that is
5 you either regulate all facilities fairly, or you
6 continue to allow the division that is out there right
7 now where some facilities are operating fully regulated,
8 and others you're saying, ahh, we'll wait a couple of
9 years before we fully regulate you. So let's level the
10 playing field right now.

11 I commend Matt and his work with Community
12 Recycling, although I don't know of the facility and
13 haven't seen it, I'm sure they are one of the most
14 successful and unpermitted food waste handlers in
15 California.

16 NorCal happens to be one of the other most
17 successful food waste handlers in California, and we
18 operate under a full permit and always have. Let's level
19 that playing field now.

20 Again, my interest overall is that regulations
21 are never designed to address those facilities that are
22 operating appropriately, now operating in compliance with
23 good health and safety practices and good land use
24 practices.

25 Regulations are state minimum standards.

1 They're designed to make sure that the ones that aren't
2 going to operate appropriately are either put out of
3 business or brought up to speed.

4 Let's, my interest here is that with this
5 movement toward organics diversion being driven by AB 939
6 and with the interest statewide and the urgency
7 statewide, let's make sure that there's an appropriate
8 regulatory structure for this type of activity that is
9 really going to come on-line here in the next year or
10 two, probably before any regular rulemaking package can
11 take place, certainly probably before two years goes by.

12 You already have, in areas that I'm immediately
13 aware of, just thinking there for a minute, San Jose
14 wants food waste implemented within two years; Alameda
15 County Waste Authority is out with an RFP right now for
16 interested parties to come in and do food waste
17 composting; San Francisco I know you're aware of, we
18 provided you information there on the programs there that
19 are trying to be implemented.

20 Those are three facilities right offhand that I
21 know, or three cities, major cities that I can think of
22 right offhand. And if given probably a half hour I could
23 come up with probably half the State of California is
24 interested in this within the next two years.

25 So there is an urgency. Let's go ahead and take

1 the option two at this time, simply remove grass
2 clippings and have an appropriate regulatory structure
3 under which everybody can operate.

4 Thank you.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you.
6 Chuck Helget representing Allied Waste.

7 MR. HELGET: Madam chairman and members of the
8 Board, I'm Chuck Helget representing Allied Waste.

9 We also would support option two, removing the
10 grass clippings from the regulation package and
11 proceeding and moving ahead.

12 But we would also add that we understand that
13 there is still some concerns expressed by, particularly
14 by local governments, and again we'd be willing to work
15 with local governments to resolve these regs, but
16 hopefully as soon as possible.

17 We do support the one percent putrescible and
18 wanted to have that stated for the record.

19 Are there any questions? Thank you.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you.

21 Chuck White, Waste Management.

22 MR. WHITE: Thank you, Madam Chair, members of
23 the Board. Chuck White with Waste Management.

24 I might direct your attention to page 28-3 in
25 the Board packet. It's kind of the summary of the three

1 issues that this proposed rulemaking would result in.

2 Number one on that page is the grass clippings
3 issue.

4 Number two is the definition of residual issue.

5 And number three is the one percent issue.

6 And those are, you know, briefly stated, the
7 three issues.

8 With respect to number one, we would concur with
9 the other speakers that we believe that grass clippings
10 should be deleted regardless of how you proceed, whether
11 through emergency rulemaking or through normal rulemaking
12 package. We believe that is really adding too much
13 material, and it would really grab a whole lot of
14 facilities out there. The question is, do they really
15 need to be regulated simply because they're handling
16 grass clippings?

17 Jumping down to number three, we certainly do
18 support the one percent. It may result, and actually I
19 haven't even determined conclusively as of today, it may
20 result in some waste management facilities having to
21 secure permits. We're not objecting to getting those
22 permits, and we're not even certain if the one percent
23 will trip us into the permitting division, most of our
24 facilities that would handle any significant amount of
25 putrescibles already have permits.

1 And this kind of really feeds into my concern
2 over, back to number two again, which is the residual
3 issue. Which includes, really for the first time would
4 capture chipping and grinding and composting and
5 materials. And heading in those directions are really
6 considered part of the definition of residual, and so
7 those facilities producing those residuals would be
8 captured as haz -- excuse me, as solid waste facilities
9 for the first time.

10 And I think this will have a tremendous impact
11 on some waste management facilities that would be either
12 standalone processing facilities or adjuncts to some of
13 our current transfer and processing operations that will
14 be required to either get new permits or modify existing
15 permits in order to operate.

16 And not that we object to doing that, it's just
17 that we need some time to get that done. As I would
18 point out that all of these operations that would be
19 requiring these new permits are all facilities that are
20 contributing to AB 939 and diversion goals, and we
21 certainly wouldn't want to do anything to create a
22 permitting hurdle, it would restrict or otherwise curtail
23 these operations.

24 With respect to the emergency versus normal
25 rulemaking process, we believe there is a need for the

1 Board to move forward and resolve these matters.

2 I actually don't really have any preference for
3 the emergency or the normal rulemaking process, I am
4 concerned that whatever package we move forward in does
5 provide at least a 24 month window to allow facilities to
6 get their necessary permits that would be captured for
7 the first time.

8 Again, these would be facilities that are
9 contributing to AB 939, that have been operating in good
10 faith thinking that they were excluded or exempt under
11 the previous regulatory structure, that now would be
12 captured for the first time, and would need an
13 opportunity to get permits. And we don't object to
14 getting those permits, we just need to make sure there's
15 time to make that happen.

16 Thank you very much.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
18 White.

19 Steve Kalvelage, Sacramento County LEA.

20 MR. KALVELAGE: Madam Chair, members of the
21 Board, thank you. I'm Steve Kalvelage with Sacramento
22 County Local Enforcement Agency.

23 I didn't come prepared to address the issue in
24 whole, but I did feel a need to address a local
25 enforcement concern that's raised itself in my

1 jurisdiction. The public and the local elected officials
2 look to us as the LEA whenever anything remotely
3 associated with waste occurs. And so we are getting
4 considerable pressure to regulate sites that we cannot
5 legally regulate.

6 So I encourage the progress on this, and have no
7 perspective one way or the other as to an emergency
8 regulation. But it would help us to have a tool to
9 address concerns that are being raised in our local
10 jurisdiction.

11 I've got a 3:30 meeting today with some very
12 angry homeowners down in Elk Grove about waste that would
13 come under this that I'm going to have to explain to them
14 that I cannot regulate right now.

15 The other concern I wanted to express is zoning
16 and code enforcement in Sacramento are playing somewhat
17 of a catchup game with the tremendous increase in the
18 diversion of waste that's occurred in the past few years.

19 And it's a perception that I want to correct
20 that there are other local regulatory tools that are
21 finetuned and on track. There are other local options
22 for these issues, but I'd, I'd like to make a point that
23 those are not always as effective as the LEA stepping
24 forward and taking action.

25 Thank you.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you very
2 much.

3 BOARD MEMBER PAPARIAN: Madam Chair.

4 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian has
5 a question.

6 BOARD MEMBER PAPARIAN: Yeah. Can you just give
7 a little better description of what types of facilities
8 you're unable to regulate? What's happening, what's
9 going on at those facilities? What's the nature of
10 the --

11 MR. KALVELAGE: The concern I've got
12 specifically is source separated green waste that causes
13 odor problems. And if it is source separated and if it's
14 removed within the seven days, we cannot regulate it as a
15 solid waste facility, it's considered recyclable.

16 BOARD MEMBER PAPARIAN: Okay. You're getting
17 odor complaints off of these facilities, okay.

18 BOARD CHAIR MOULTON-PATTERSON: Thank you very
19 much for being here.

20 Larry Sweetser.

21 MR. SWEETSER: Larry Sweetser on behalf of the
22 Environmental Services Joint Powers Authority.

23 And the main issue of concern to the rural
24 counties is the omission of grass clippings from the
25 list. And we don't feel, as we've testified before, that

1 inadvertent amounts of grass clippings and the pile of
2 pine needles and other things that are destined for some
3 other composting would be worthy of being captured in a
4 higher regulatory tier. So the omission of the grass
5 clippings is critical to our operation.

6 We do agree to an extent with Mr. White's
7 concern about the chip and grind operations. That's the
8 difference between whether a residual goes to for further
9 processing or whether they chip and grind themselves, and
10 if we're trying to capture all the chip and grind
11 operations in a higher tier just by themselves, that
12 would be an issue as well.

13 With those two things considered we don't have
14 an issue going forward on the emergency that might put
15 some of these facilities in perspective as far as whether
16 there really is a problem, and also provide some,
17 provided the regular rulemaking does incorporate some of
18 these issues into that.

19 So thank you.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you. Also
21 I wanted to mention yesterday that we had an e-mail that
22 was distributed to all the Board offices from Stewart
23 Cummings, and he wanted to make sure that this was
24 entered into the record, and I have a copy of his letter.

25 BOARD MEMBER EATON: Yes, so all Board members

1 are ex-partied now?

2 BOARD CHAIR MOULTON-PATTERSON: Yes, all Board
3 members are ex-partied now. Thank you, Mr. Eaton, we'll
4 make that clear.

5 Okay. So that concludes our public comments at
6 this time. If any, any staff comments as far as that
7 goes?

8 MS. NAUMAN: No, I was waiting for questions or
9 a determination.

10 BOARD CHAIR MOULTON-PATTERSON: Okay. We're
11 going to go to the Board members.

12 Mr. Eaton.

13 BOARD MEMBER EATON: I'll wait.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. You know,
15 I'll just start off just, you know, I definitely would
16 like to delete the grass clippings myself. I know I
17 voted for that last month, there were some issues that I
18 didn't really realize would come into play.

19 And so speaking for myself, I'm really torn
20 between option two and option three.

21 I, on option two, you know, the leveling of the
22 playing field, that argument certainly plays to me, and I
23 would like to get some of these operations permitted.

24 Option three would allow for more public
25 comment, but I'm a little bit put off by the time it

1 takes.

2 So I'm, I'm real concerned. I would want to go
3 with either of those, but I'll open it up to my fellow
4 Board members to see how they feel about it.

5 Who wants to go first? Senator Roberti?

6 BOARD MEMBER ROBERTI: Oh, well on the two
7 options my preference would be option three, but I think
8 18 months is just way too --

9 MS. NAUMAN: Madam Chair, I might point out --

10 BOARD MEMBER ROBERTI: -- long. It's --

11 MS. NAUMAN: I might point out that, for the
12 benefit of the audience, in the back we do have a copy of
13 what the language would look like on the, kind of
14 mid-course option that we talked about earlier in
15 response to Senator Roberti's questions. It's not really
16 reflected in the options you have up on the screen, but
17 there are copies of it in the back.

18 BOARD MEMBER ROBERTI: Can you, would you read
19 it to us?

20 MS. NAUMAN: It would be an amendment to Section
21 17402, definitions. For purposes of these articles,

22 "21. Putrescible waste includes wastes that
23 are capable of being decomposed by
24 microorganisms with sufficiently -- excuse me,
25 with rapidity as to cause nuisances because of

1 odors, vectors, gases, or other offensive
2 conditions, and include materials such as, but
3 not limited to, food waste, offal, and dead
4 animals."

5 New language to be added would be 21.1,
6 "Putrescible waste, transfer processing
7 operation means an operation that receives less
8 than 60 cubic yards or fifteen tons of
9 putrescible waste per operating day."

10 New section 21.2,

11 "Putrescible waste transfer facility means a
12 facility that receives greater than 60 cubic
13 yards or fifteen tons of putrescible waste per
14 operating day."

15 And then we would add section 17402.1.1,
16 Putrescible Transfer Processing Operations.

17 "All putrescible transfer processing
18 operations subject to this article shall comply
19 with articles 6.0, 6.1, 6.2, and 6.3 of this
20 chapter."

21 And at Section 17403.1.2, Putrescible Transfer
22 Processing Facilities.

23 "All putrescible transfer processing
24 facilities subject to this article shall comply
25 with the articles 6.0, 6.1, 6.2, 6.3, and 6.35

1 of this chapter."

2 What I've just read would effectively bring
3 within the regulation, under the regulatory framework
4 these facilities, and bring them under the state minimum
5 standards. So these would be amendments to the existing
6 transfer processing regulations just to bring them in
7 under the state minimum standards as we have done, as we
8 did earlier with chipping and grinding.

9 And, of course, no permit would be required.
10 And this was staff's suggestion to get at the issue of
11 the amount of time that option three would take. This
12 could proceed as emergency regulations, become effective
13 thirty days after submittal to the Office of
14 Administrative Law.

15 If you were to direct us to do this today based
16 on this language, we could move forward with that
17 immediately, we would not need to come back with a
18 separate agenda item next month to do that. And then you
19 could also direct us then to begin work on option three,
20 to begin the process of a permanent regulatory process to
21 bring the full complement of regulations to bear,
22 including permitting options that you see in the set of
23 regulations before you, or that you already addressed in
24 the emergency regulations last month.

25 If that's clear?

1 BOARD CHAIR MOULTON-PATTERSON: You know, I
2 don't want to open up public comments again, I mean to
3 everybody, but I would like to, I mean the people that
4 are in favor of option two, have they had a chance to see
5 this?

6 MS. NAUMAN: Not prior to this morning. I
7 apologize for that.

8 BOARD CHAIR MOULTON-PATTERSON: Yeah.

9 MS. NAUMAN: We've been kind of struggling the
10 last couple of days understanding the dialogue that's
11 going on on this issue to try and come up with some other
12 option for the Board to consider.

13 BOARD MEMBER ROBERTI: Why would this be
14 classified as an emergency reg?

15 MS. NAUMAN: So that you could, immediately upon
16 adoption of this limited emergency regulation package,
17 bring the operations facilities at least under the
18 requirement that they comply with state minimum
19 standards, and give the LEA --

20 BOARD MEMBER ROBERTI: So in effect this is a
21 partial --

22 MS. NAUMAN: It's a partial fix.

23 BOARD MEMBER ROBERTI: It's a smaller emergency
24 reg?

25 MS. NAUMAN: Exactly.

1 BOARD MEMBER ROBERTI: And would cover, to the
2 best of your knowledge, all the facilities that right now
3 may have a problem?

4 MS. NAUMAN: I'm sorry, Senator, I wasn't --

5 BOARD MEMBER ROBERTI: It covers all those
6 facilities which right now are in the problem area?

7 MR. HOLMES: It would cover those seven
8 facilities, you know, plus any ones that we missed that
9 would be subject to the regulations.

10 However, in the language that you have --

11 BOARD MEMBER ROBERTI: But the language is not
12 as broad.

13 MR. HOLMES: It doesn't require any permitting,
14 there are no permitting requirements in there, therefore
15 all the discussion about enough time to get permits in
16 order would not be germane until we come back with the
17 regular rulemaking part of that.

18 BOARD CHAIR MOULTON-PATTERSON: One possibility,
19 and I don't know how my colleagues feel about this, but
20 since our speakers haven't had a chance to see it, you
21 know, it is 12:00 o'clock, we might want to break, I hate
22 to break in the middle of an issue, but this would give
23 our stakeholders a chance to see it, and Board members a
24 chance to think about it, and we could come back and
25 finish this after lunch.

1 BOARD MEMBER EATON: I don't see anything that
2 would impair with that, we have food for thought and
3 thought for food, that seems to be a good situation.

4 MR. HOLMES: Madam Chair, I would like to point
5 out that you'll notice in the alternative proposal that
6 grass clippings is not in the definition --

7 BOARD CHAIR MOULTON-PATTERSON: Okay.

8 MR. HOLMES: -- of putrescible waste.

9 BOARD MEMBER PAPARIAN: Madam Chair, on that
10 point could I just clarify something about the grass
11 clipping issue?

12 BOARD CHAIR MOULTON-PATTERSON: Certainly.

13 BOARD MEMBER PAPARIAN: If, the definition of
14 putrescible waste suggests that these are wastes that are
15 capable of being decomposed by microorganisms with
16 sufficient rapidity as to cause nuisances because of
17 odors, vectors, gases, or other offensive conditions.

18 If we remove grass clippings from that
19 definition, but an LEA feels that grass clippings are
20 causing nuisances as described here, would they be
21 allowed to deal with those grass clippings? Or because
22 of our action would they be specifically precluded from
23 dealing with it?

24 LEGAL COUNSEL TOBIAS: Madam Chair.

25 BOARD CHAIR MOULTON-PATTERSON: Ms. Tobias.

1 LEGAL COUNSEL TOBIAS: Mr. Block and I were just
2 discussing that exact issue and kind of going back and
3 forth on it.

4 I do think that it would be more clear if we
5 said, you know, includes materials such and not limited
6 to whatever, and then said and excludes grass clippings.
7 I have the same concern that when you leave a definition
8 in that something fits into, even though we have the
9 administrative record which will reflect that, if the
10 Board does not want grass clippings addressed in these
11 regulations, I think we might be leaving an ambiguous
12 situation there. So I think, you know, over the break
13 you may want to --

14 BOARD MEMBER PAPARIAN: Yeah. And what I think
15 the Board is trying to get at are grass clippings that
16 aren't causing nuisances. So I don't think you'd want to
17 specifically exclude grass clippings.

18 If you can make a case that they're causing a
19 nuisance, then the LEA's ought to have that authority.
20 So I wouldn't put in the language that specifically
21 excludes grass clippings.

22 BOARD MEMBER ROBERTI: Why can't we say
23 something may include grass clippings if they are deemed
24 to be a nuisance?

25 LEGAL COUNSEL TOBIAS: Maybe what we could do is

1 work on this definition at lunchtime as well. My
2 concern, I think part of what you may want to consider is
3 how much certainty do you want the LEA's to have in terms
4 of making their judgments on that. Because I think
5 there's an argument for that, there's also an argument to
6 leaving it more open.

7 As Elliot pointed out, if you stay with
8 emergency regs, then they are just that, and we can come
9 back and spend more time on them when we go ahead and
10 adopt permanent regs.

11 If we're moving towards a regular reg package,
12 then we'll have time to address that as we go through
13 that process. So we can certainly spend some time on it
14 and fool around with a couple of alternatives for the
15 Board.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you. And
17 I will be calling a lunch break right now, and we'll
18 reconvene at 1:30. Thank you.

19 (Thereupon the luncheon recess was taken.)

20

21

22

23

24

25

1 AFTERNOON SESSION

2 --oOo--

3 BOARD CHAIR MOULTON-PATTERSON: I'd like to
4 call the meeting back to order, please. We'll start with
5 our ex-partes.

6 Mr. Eaton.

7 BOARD MEMBER EATON: None to report, thank you.

8 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

9 BOARD MEMBER MEDINA: None to report.

10 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Yes, three people all on
12 item 28, Dawn Gambelin from NorCal, John Cupps, and Chuck
13 White from Waste Management.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you. And
15 I spoke with Denise Delmatier on item 28 briefly.

16 BOARD CHAIR MOULTON-PATTERSON: Okay. Ms.
17 Nauman.

18 MS. NAUMAN: Good afternoon.

19 BOARD CHAIR MOULTON-PATTERSON: On Item 28.

20 MS. NAUMAN: Back on item 28. Staff has worked
21 through the lunch hour and has prepared some slides that
22 we hope will provide some clarity on the options that
23 we've been talking about and we're talking about this
24 morning, and the potential impact that each of those
25 options would be.

1 So Bob will start with the three options that
2 were included in the agenda item, and then go to what we
3 were calling this morning the alternative emergency
4 regulation approach.

5 MR. HOLMES: Good afternoon. These slides will
6 try to depict what we get out of each of the options.

7 So option one is the no action, which means that
8 the February action or adoption of the emergency
9 regulations would stand.

10 That means that grass clippings, the term grass
11 clippings is still in the definition of putrescible
12 wastes.

13 That means that the one percent putrescible
14 waste figure or requirement is still there.

15 And the definition of residual that includes
16 destination to chipping and grinding, composting and
17 storage is still in, which means material going onto
18 those destinations count as residual.

19 And we had that, we had that in our minds to
20 talk with you about, we kind of skipped over that when we
21 started to go to the option three scenario, so we haven't
22 had a full discussion of that potential impact.

23 MS. NAUMAN: But we would be recommending a
24 change in that area, so if you can kind of make a
25 distinction between the first two bullets and the third

1 bullet on this option.

2 MR. HOLMES: And that flexibility would be
3 afforded to you in option two.

4 The option one impacts. Seven of the sites we
5 showed you earlier, at a minimum, as high as an order of
6 magnitude higher than that, up to seventy sites would be
7 immediately subject to state minimum standards and
8 permitting requirements.

9 So there would be no flexibility to provide a
10 delayed effective date. And we did hear testimony to the
11 extent that there's a range of between seventeen and 24
12 months or 23 months that the operators are telling us
13 they would need to get their permits in place.

14 Option two which we presented to you earlier is
15 the modified emergency regulations, in which case you
16 would have the opportunity to remove grass clippings from
17 the definition if you so chose.

18 You would have the opportunity to modify the one
19 percent figure.

20 And also clarify the ambiguity that we pointed
21 out with respect to how that is measured; is it one
22 percent of the total incoming, or is it one percent of
23 the ten percent of the residual?

24 And you would also have the opportunity to fix
25 the issue we just referred to, that is the definition of

1 residual, including the destinations of chipping and
2 grinding, storage, and composting.

3 Options -- or impacts from option two.

4 Depending on how you make those modifications, okay, and
5 examples are there in the bulleted items below, you can
6 take out grass clippings, in which case then the LEA
7 would have discretion on what is and what is not
8 putrescible.

9 You could modify the one percent, in which case
10 six of the seven sites we showed you earlier, plus some
11 unknown amount would still be subject to the regulations,
12 and you would be able to modify the definition of
13 residual, again six of seven plus.

14 Also, it's not shown here, but again, same thing
15 as in option one, these sites would be immediately
16 subject to the regulations, there would be no
17 flexibility, including permit requirements, and there
18 would be no flexibility for a delayed effective date for
19 those.

20 Option three is the other kind of a catch-all
21 option. The example that we discussed is a regular
22 rulemaking. The advantages of that process is that it
23 would be an inclusive process, we would be able to get
24 everyone to the same table and discuss the outstanding
25 issues.

1 The downside is that, if you choose to see it as
2 a downside, seven of the site shown plus would not be
3 subject to state level regulatory oversight for a period
4 of 12 to 18 months. Even, you know, beyond the date
5 where the regulations would become effective, there would
6 be kind of a wait and see stance taken by most operators
7 from what we know from our experience, until they have
8 some certainty as to what the regulations will look like
9 before they, you know, pursue with any vigor what kind of
10 permits they're going to get. And so in that meantime
11 there's some regulatory uncertainty.

12 And now for the alternative proposal which would
13 be a complete substitution for any of the previous
14 emergency rulemaking concepts. So that means there would
15 be no change to existing language.

16 The two part test would remain as it is, a two
17 part test.

18 We would not have the one percent putrescible
19 included.

20 This would be a complete substitution for those
21 earlier concepts.

22 You would have immediate regulatory oversight
23 upon approval of the emergency regulations by the Office
24 of Administrative Law.

25 We have left grass clippings out of the

1 definition of putrescible just as a starting point. You
2 certainly have the option to change that during this
3 process as well.

4 And again, you would have the opportunity to
5 discuss the outstanding issues, that is the grass
6 clippings and the one percent in an inclusive process.

7 Again, these, these, there would be no
8 permitting requirements with this proposal, just state
9 minimum standards.

10 The impact from this proposal: An undetermined
11 number of activities, because if we do not place grass
12 clippings in the definition, it would be at LEA
13 discretion on what applies, and so we are uncertain at
14 this point how many sites would be impacted.

15 MS. NAUMAN: Elliot is now going to walk you
16 through the language that would apply to this language.

17 LEGAL COUNSEL BLOCK: Elliot Block for the legal
18 office. And in addition to the quick Power Point we're
19 going to go through, you have each received a one page
20 copy of the regulatory language and there were copies
21 placed on the table in the back.

22 Basically, in terms of effect, the same language
23 that you had before the lunch break that Bob handed out,
24 and what we've done over the lunch break is finetuned it
25 a little bit and changed some of the terms so that

1 they're consistent with what we've done in the past when,
2 for instance, when we added chipping and grinding to the
3 composting regulations without sliding them into the
4 permitting tiers at that time.

5 I just wanted to run through these very briefly.
6 This first slide. Again, Bob has already mentioned this.
7 The alternative emergency option would not change the
8 definition of putrescible so that means it would leave
9 grass clippings out, and so that issue would be decided
10 on a case by case basis if the LEA determined it was a
11 nuisance, or one of the problems that was listed in that
12 definition.

13 We would add a definition of what we're calling
14 putrescible waste transfer processing activity. And that
15 would be any activity that receives greater than 60 cubic
16 yards or fifteen tons of putrescible wastes per operating
17 day. And again, that matches the language we've used in
18 the past in these regulations.

19 Just a note. We use the term activity, and I
20 realize it's not the best term, but the term
21 operation, facility, site, center, all the things we
22 looked at doing, have other meanings within other
23 contexts, and so we have tried to avoid those. They have
24 meanings in terms of the permit tiers and the like.

25 In the past when we added chipping and grinding

1 to the compost regs, for instance, we used activity.
2 It's not the greatest kind of description of the site,
3 but we're concerned about using the terms like operation,
4 because typically that's the term we use when we send
5 something to the notification tier, for instance. And
6 using emergency regs wouldn't get to that issue yet at
7 this point.

8 So unfortunately we're using that term activity,
9 that's a slight change from the version we saw before
10 lunch.

11 Okay. And then we would add a section, and
12 here's something that was added from what was, you looked
13 at prior to lunch. Very specifically saying that
14 notwithstanding section 17402.5D, and that is a
15 subsection that has the two part test in it,
16 notwithstanding the fact that an operation might be
17 otherwise excluded by that subsection, if there are
18 putrescible waste transfer processing activity they shall
19 be subject to, and then we spell out certain requirements
20 of the state minimum standards.

21 The reason that that's written that way is
22 because there are other exceptions within that recycling
23 center section; for instance, for rendering plants, the
24 regional produce distribution center, and we didn't want
25 to accidentally get rid of those exclusions while we were

1 dealing with this particular issue.

2 So that's why it's very specific to the two part
3 test subsection. And why don't you go to the next slide?

4 Article 6.1, .2, .3 and .35, you can see here
5 just very briefly it's the various different articles
6 that have different state minimum standards within the
7 site; design, operating standards, recordkeeping, and
8 there's some additional operating requirements.

9 And one last slide here.

10 And then the last subsection, and it's a long
11 one here but I'll just, I'll briefly say what this is.
12 This matches again what we've done in the past with
13 chipping and grinding. When we added those activities to
14 the compost regulations, there were some questions about
15 LEA authority to inspect and take enforcement action
16 since those operations hadn't been slotted in the tiers.

17 And so, again, just for clarity, we wanted to
18 make clear in the regulations that these activities be
19 subject to the specified standards, and the LEA would
20 have the authority to inspect for compliance with those
21 standards and take enforcement action as appropriate.

22 I think that was the last one. I don't know if
23 you had any questions about the specific language, but we
24 wanted again to provide you with the language today in
25 case the Board wanted, if this was an option you wanted

1 to choose and you wanted to go ahead and make a decision
2 as opposed to having to come back next month.

3 BOARD CHAIR MOULTON-PATTERSON: Any questions on
4 the language, Mike? I mean, Mr. Paparian.

5 BOARD MEMBER PAPARIAN: Yeah. Could you just
6 briefly describe what you see as the advantage of this
7 versus the regulation approach that's in our binder? Why
8 do this instead of the regulation?

9 LEGAL COUNSEL BLOCK: As opposed to the
10 emergency regs that were adopted in February?

11 BOARD MEMBER PAPARIAN: Right.

12 MR. HOLMES: Because this alternative proposal
13 would subject those operations or activities only to the
14 minimum standards, it wouldn't include any of the
15 permitting requirements, it seems to be one of the
16 biggest items of contention with the emergency regs as
17 adopted.

18 BOARD MEMBER PAPARIAN: Some of the folks seem
19 to be okay with having permits and some of, so --

20 MR. HOLMES: Yes, the ones that are okay, there
21 are some that don't want permits, some that are okay with
22 having permits; but the ones that are okay with having
23 permits are asking that we at least afford them the time
24 necessary to get all their permits in order.

25 And what we're seeing is because, if we adopt

1 the emergency regulations we have a finding of emergency,
2 that regulations are needed right now for protection of
3 public health; but we don't want them to become effective
4 immediately because they can't get their permits in order
5 that fast.

6 We would have to delay the effective date for
7 some time, and what they're asking, they were telling us
8 they need is up to 24 months. So we don't think OAL will
9 buy the argument that we need emergency regs but we don't
10 want them to become effective for 24 months.

11 BOARD MEMBER PAPARIAN: So then just so I
12 understand your position then, we don't want to accept
13 this alternative, but pursue through the regular
14 regulation process the regulations that are described in
15 our binder?

16 MR. HOLMES: Correct.

17 BOARD MEMBER PAPARIAN: Thank you.

18 BOARD CHAIR MOULTON-PATTERSON: We did have
19 another speaker.

20 BOARD MEMBER EATON: I just had --

21 BOARD CHAIR MOULTON-PATTERSON: Oh, I'm sorry,
22 Mr. Eaton.

23 BOARD MEMBER EATON: If you don't mind. I don't
24 understand the alternative. If there's no permit, is
25 there an annual inspection required or anything? Under

1 this, basically what you're saying is that unless there's
2 a complaint, the LEA has no obligation; whereas under the
3 previous option two, the LEA would be required to inspect
4 these facilities, isn't that correct, on an annual basis
5 or eighteen months basis or whatever?

6 MR. HOLMES: Yes. If they're considered
7 facilities there would be a thirty day inspection
8 frequency per statute, otherwise the inspection frequency
9 could be set in regulation. But you're correct, this
10 would not --

11 BOARD MEMBER EATON: So this is another
12 distinction?

13 MR. HOLMES: Yes.

14 MS. NAUMAN: Really what we're struggling with
15 is trying to --

16 BOARD MEMBER EATON: I understand why we're
17 struggling, but I also think it's really important
18 because we've gone a long, long time to get here, and
19 that, at least from my perspective option two is the
20 ideal option because; one, it protects the public health
21 and safety, and it gives time for us to be able to work
22 through some of the other issues.

23 And if you remember, and I was telling Senator
24 Roberti on the way up in the elevator when we left, this
25 is the same place we were a month or two ago when we

1 decided to put in grass clippings, because all we had to
2 say was basically the LEA, through our advisory process,
3 can be delegated to give the parameters of what you're
4 trying to do here. And we can do that through an
5 advisory, LEA advisory.

6 Now we're basically even sort of, you know,
7 establishing a record by which the regulations now, at
8 least in the public testimony and public setting,
9 basically says yeah, we're trying to do this but we're
10 really going around them.

11 If the Office of Administrative Law really took
12 a look at the record, went back to the record, I don't
13 even know if these would pass under those circumstances.

14 So I am also very concerned about the
15 inspection. You'd have to try, and it has to be a
16 proactive kind of, resident sort of complaint to get that
17 going. And that, to me, if there's an emergency and the
18 regulations have an inspection process, then we're
19 circumventing that inspection process through this fourth
20 option.

21 And I think that's an important distinction,
22 because that's one of the things that triggered one of
23 the things in the audit report that we're talking about
24 is how we deal with inspections.

25 Thank you.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
2 Eaton.

3 Mr. Paul Ryan, did you wish to speak? You know,
4 we don't want to repeat all the public comments, but if
5 you did want to speak briefly, then please let me know or
6 sign a speaker slip.

7 MR. RYAN: Honorable chair and Board members, I
8 share your frustration in trying to solve this problem.

9 I would like to have you go back and reconsider
10 option two with the modification that was referred to.

11 In listening to the staff's testimony and
12 others, it still recognized that if we don't, if the
13 Board doesn't step up to the plate and put in, in effect,
14 regulations so that you have some authority or control,
15 and it leaves it to the local jurisdictions to enforce
16 the regulations until such time as you put something in
17 place.

18 I've been working with the South Coast Air
19 Quality Management District on Rule 1133, which is the
20 composting regulation, they're watching this proceeding
21 carefully, as well as Riverside County, if you are
22 familiar with the issues that they've had plus what's
23 happened in San Bernardino. We're all needing
24 regulations in this area of composting, green waste, and
25 so on.

1 Riverside County, for example, has a ordinance
2 ready to go. I'm a member of the local task force there,
3 and we've worked on this quite some time, and we've sort
4 of been waiting to see what happens at the Board.

5 So I only encourage you to look at, carefully at
6 option number two with the revision, because we'd like
7 you to step up to the plate, because it adds, it provides
8 uniform regulation rather than to see it piecemeal
9 through the local decision-making process.

10 Thank you.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
12 Ryan. Karen Coca, City of Los Angeles.

13 MS. COCA: Hello again. I won't reiterate what
14 I said this morning. I just want to, looking at this new
15 option four, I think it allows for there to be some
16 oversight while the rest of the issue and all of the
17 language modifications and discussions can still happen.

18 And so I would support having this go forward
19 under the emergency regs and taking the rest through the
20 rulemaking process.

21 Thank you.

22 BOARD CHAIR MOULTON-PATTERSON: Thank you. Don
23 Gamblin.

24 MR. GAMBELIN: Hello again. Boy, I thought we
25 were a little bit closer to a solution than option, or

1 the new option presented. And I think, unfortunately,
2 the new option gets well away from what the original
3 intent of this whole activity was, and that was to close
4 essentially a loophole under the recycling center
5 exclusion for facilities that were handling putrescible
6 waste.

7 And I think option two under the emergency regs
8 does that best. Remove the grass clippings, adopt the
9 emergency regs.

10 Again, my feeling is with the mass movement in
11 California of municipalities moving toward organics
12 diversion, including food waste, does the Board really
13 want to be in the position of playing catchup with a
14 regulatory package two years from now or more to address
15 facilities that are trying to come on line now that
16 there's a large focus on.

17 And frankly, from my perspective I'd like to
18 have that regulatory package in place so that when I'm at
19 the local level trying to get a local permit for a
20 facility to handle this kind of material, I can hold up
21 the Waste Board and their regulation as somebody that
22 there's a great level of oversight, of detailed
23 oversight, of experienced oversight on which the locals
24 can feel comfortable as somebody who is overseeing this
25 operation who has specific expertise in waste management.

1 And you're not depending on a local planning
2 agency whose ordinances may or may not be specific enough
3 to address the type of activities that we're talking
4 about, and having something written poorly into a use
5 permit.

6 So again, the time is now for the regulatory
7 package. You've got to understand what's going on out
8 there. And any delay, really you're just going to be
9 playing catchup for a whole host of problems.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.
11 Chuck White.

12 MR. WHITE: I think I understand all the
13 concerns of the various parties here, I'm not sure I can
14 explain them all.

15 But the new alternative that you're suggesting,
16 I understand why people have concerns about it because it
17 doesn't go as far in regulating some of these facilities
18 as some folks would like.

19 However, it does create a stopgap measure of at
20 least putting, subjecting food waste processing
21 facilities to some regulatory requirements.

22 And so I think we could live, Waste Management
23 could live with this, recognizing that it's not a perfect
24 solution.

25 We could also live with emergency regulations,

1 the option two. But we, again, urge the Board if you
2 choose that route, to provide a mechanism for facilities
3 to come into compliance with these new permitting
4 requirements that would be in place.

5 You have facilities, recycling facilities,
6 chipping and grinding facilities that have been operating
7 in good faith thinking that they were exempt from
8 regulations, now you'd be adopting emergency regulations
9 that would suddenly throw them into the permitting
10 universe.

11 We have no objection to getting permits, we just
12 urge you to provide us enough time to get permits for
13 those facilities that would be newly captured as
14 permitted facilities by these new regulations if you
15 choose to go that route.

16 Thank you.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
18 White.

19 Mr. Medina.

20 BOARD MEMBER MEDINA: Madam Chair, I'm prepared
21 to make a motion that we adopt option two with the
22 removal of grass clippings from the emergency
23 regulations.

24 BOARD MEMBER EATON: I'll second.

25 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a

1 motion by Mr. Medina, seconded by Mr. Eaton for, to
2 approve option two with the removal of grass clippings.

3 We'll leave the roll open for Senator Roberti.

4 MS. NAUMAN: Excuse me, Madam Chair. I'm sorry
5 to interrupt. But before you make your vote, could you
6 give some consideration to the other issue that we raised
7 that there was kind of a change in definition that we
8 didn't have time to discuss with you this morning because
9 we went to public comment, that we think is a technical
10 fix for something we inadvertently made happen in
11 February, and we would really like to make that part of
12 what you're adopting.

13 BOARD CHAIR MOULTON-PATTERSON: Do you have a
14 problem with that?

15 BOARD MEMBER MEDINA: If staff will clarify --

16 MS. NAUMAN: Oh, they're telling me it's fixed
17 in option two.

18 MR. HOLMES: But we do need you to direct us to
19 make that change. It's the definition of residual. The
20 definition that you agreed to in February includes, would
21 include in the definition of residual materials that go
22 on to chipping and grinding, composting, and storage.

23 That would mean someone who could meet the two
24 part test would fail the ten percent part of that test
25 because of those materials going onto that. So they

1 would pass the one percent, they don't accept putrescible
2 waste, but they would fail because their materials are
3 going onto those destinations.

4 We didn't intend to do that. We only wanted to
5 make sure that we counted the putrescible part. So the
6 fix is to take out the specific reference to the
7 destinations of chipping and grinding, storing, and
8 composting, and just say you count the putrescible part.

9 BOARD CHAIR MOULTON-PATTERSON: That doesn't
10 change, does it?

11 BOARD MEMBER EATON: That was part of option
12 two, if I'm not mistaken.

13 BOARD CHAIR MOULTON-PATTERSON: So the maker of
14 the motion is agreeable, we'll hold the roll open for
15 Senator Roberti.

16 Please call the roll.

17 BOARD SECRETARY VILLA: Eaton.

18 BOARD MEMBER EATON: Aye.

19 BOARD SECRETARY VILLA: Medina.

20 BOARD MEMBER MEDINA: Aye.

21 BOARD SECRETARY VILLA: Paparian.

22 BOARD MEMBER PAPARIAN: Aye.

23 BOARD SECRETARY VILLA: Moulton-Patterson.

24 BOARD CHAIR MOULTON-PATTERSON: Aye. Item 29.

25 MS. NAUMAN: Item 29 is discussion and

1 consideration of an approval to formally notice proposed
2 regulations for compostable materials handling operations
3 and facilities.

4 Jeff Watson and Kevin Taylor will make the
5 presentation.

6 MR. WATSON: Okay. So what we're doing now is
7 looking at the left side of our little slide, and we're
8 down at the bottom.

9 And the rationale for having these regs go
10 forward as listed is that we need to give permitting to
11 C&G, chipping and grinding facilities, which we have made
12 a commitment to in prior, the determination of prior
13 regulations rulemaking.

14 We also had a need to do some tier
15 simplification or make some clarification on where tiers
16 would be used, and then there's some interest in the
17 consequences of these actions on market development.

18 And so Kevin will discuss that in just a second
19 apparently.

20 MR. TAYLOR: Kevin Taylor, Waste Prevention and
21 Market Development.

22 First of all I want to say -- can you hear me
23 okay? I've been working with the P&E staff for some time
24 myself about a year and a half, and I think we've come to
25 really have a better understanding about how things work,

1 both on the permit side as well as the market development
2 side, especially with their concerns of health and safety
3 and stuff, it's been a beneficial process.

4 The fact remains that two-thirds of organic
5 materials generated are still landfilled, and that
6 constitutes over forty percent of the waste stream in
7 California. So we definitely have a need to develop
8 markets.

9 And I think the first issue that we looked at is
10 to stimulate startup green waste operations by redefining
11 the green materials category.

12 And that is increasing on-site volume allowed in
13 the EA or EA notification tier, encouraging starting up
14 of the types of businesses.

15 And second, lowering the contamination levels to
16 encourage cleaner feedstock yielding more marketable
17 products.

18 And the second issue has to do with
19 agriculture. That's encouraging greater use of urban
20 yard trimmings for on farm composting.

21 Higher volumes in the EA notification tier to
22 allow for flexibility.

23 Farms and orchards are large potential markets
24 for the green materials and compost that are produced.
25 And we'd like to see this taken advantage of.

1 And third would be the development of food green
2 in the food green category. This would allow for a
3 higher percent contamination than the aforementioned
4 green category. This allows for residential, restaurant,
5 and grocery food scraps to be composted, to clarify and
6 simplify our regulatory requirements.

7 And as you've probably heard, food scraps make
8 up over fifteen percent of the waste stream. And as
9 you've heard from our speakers, many jurisdictions are
10 interested in creating these types of programs, and we'd
11 like to address this type of material in the regulatory
12 structure.

13 MR. WATSON: So, to make sure that we caught the
14 chipping grinding industry, we wanted to apply a
15 regulatory tiering system that would be consistent with
16 the composting.

17 So basically if you're at a certain volume, if
18 you would be needing a permit as a composter, you'd need
19 a permit as a chipper and grinder.

20 So it's the handling of organic materials, not
21 necessarily the composting that we're now regulating, so
22 that's why we've called these the compostable materials
23 handling regulations.

24 So we would place into the regulatory tiers the
25 operations that had before been chipping and grinding or

1 referred to as chipping and grinding or storage in the
2 previous regs, and they would be subject to all the
3 minimum standards, as would the composting facilities of
4 the same size, and subject to permit requirements that
5 would be similar to those that would be composting
6 facilities.

7 We would lower the allowable storage time to 48
8 hours from seven days. And then we would have, retain
9 the exclusions, and add a few for certain minimal risk
10 operations.

11 The old you saw before flash before you, the old
12 structure, it was somewhat complex. So what we've tried
13 to do is take some elements of the notification tier and
14 add some requirements of information from the
15 registration tier, and get a little beefed up
16 notification tier.

17 And then we've created a main, using the full
18 permit structure, called compostable materials permit,
19 for all of the others. So everything would be using a
20 full permit structure, except those few that we would put
21 into a EA notification.

22 There was also in this package that we're
23 bringing before you today, an alternative classification
24 option, and that would allow the LEA to, upon application
25 from the operator, to allow a downward movement to a

1 notification level of a facility that had no public
2 opposition. So it was just basically a remotely located
3 site.

4 In this reg package we are requiring that all
5 facilities and operations, that would mean everything
6 that we would have authority over, would have to submit
7 an odor impact minimization plan. And these plans would
8 be site specific. They would have some sort of complaint
9 response designs and operations, consistent with the type
10 of operation, and that it would be continuously updated.

11 There were other kind of cleanup options that we
12 pursued, one that came in just recently in the last
13 revision was personnel training that was conspicuously
14 absent from this package and was in the transfer
15 processing and landfill packages; so we added it in.

16 And we have now put a requirement for at least
17 one person on site to have twenty hours annually of Board
18 approved training. This is consistent with the direction
19 that we're going for landfills also with the landfill
20 certification that we're headed for.

21 And then some other standards that we did.
22 There was some clarification on some testing, sampling,
23 and then we added some reporting as part of the minimum
24 standards.

25 So your options before you today are to notice

1 for us to begin a 45 day comment period through the OAL
2 process;

3 You could ask that we would revise and, revise
4 these regs to your specification and then notice that 45
5 day;

6 Or you could say that we need to seek additional
7 input and bring it back to you at a specific date.

8 We are not aware of any outstanding issues that
9 could not be dealt with in the 45 day comment period, and
10 we recommend that we would bring that forward at your
11 direction.

12 Thank you.

13 BOARD CHAIR MOULTON-PATTERSON: And thank you.
14 And we have a number of speakers. Any questions before
15 we begin the speakers?

16 Mr. Paparian.

17 BOARD MEMBER PAPARIAN: Can I ask just one
18 question? On page 29-31 there's a list of maximum
19 concentrations of various metals that would be allowed in
20 the products derived from compostable materials. Where
21 did we come up with these numbers?

22 MR. WATSON: That's a 503 message, that's the
23 Federal 503 regs. That's where we came up with those
24 numbers.

25 BOARD MEMBER PAPARIAN: And that's the federal

1 acceptable amounts for compost or for what?

2 MR. WATSON: Sludge.

3 BOARD MEMBER PAPARIAN: For sludge. Because
4 there has been controversy about metals in sludge and the
5 amount that's allowed in various things, like chromium
6 and lead and so forth in sludge.

7 MR. WATSON: Correct.

8 BOARD MEMBER PAPARIAN: So I'd be a little bit
9 concerned if we then pull that controversy into what we
10 do.

11 MR. WATSON: There is no change in that area for
12 this reg package. So this is consistent with the
13 previous, we have not modified those numbers in this reg
14 package.

15 LEGAL COUNSEL BLOCK: Actually those numbers
16 have been in since 1993.

17 MR. WATSON: Well back to the 1995 version.

18 BOARD MEMBER PAPARIAN: Have we asked OEHA to
19 weigh in?

20 MR. WATSON: There is significant movement in
21 this. The Canadian numbers are becoming more acceptable.
22 So there is, we would, we would expect in the next few
23 years a little more science. Currently we are not aware,
24 at least at our level, of any consensus on what the
25 numbers should be for compost.

1 BOARD MEMBER PAPARIAN: But the Canadian numbers
2 are lower than these numbers? That is less than --

3 MR. WATSON: For the most part, yes. Yes.

4 BOARD MEMBER PAPARIAN: Okay. I'm going to have
5 to think about this a little bit, but I think we may want
6 to ask OEHA, because they are our experts in this area,
7 to take a look at these numbers and the Canadian numbers
8 to see if we should be putting out something that, you
9 know, allows these levels.

10 MR. WATSON: We are working with several
11 organizations in the state to look at these numbers. The
12 compost quality people are also interested in these
13 numbers, and some other people that are wanting to market
14 certain of the sludge based products are very interested
15 in those numbers also.

16 BOARD MEMBER PAPARIAN: Right. And I'm sure
17 that they are, but we have some of our own experts in
18 this building who can give us a, hopefully an unbiased
19 view of whether this is appropriate to allow.

20 MR. WATSON: Absolutely. And that could be
21 changed by, at any time by a separate action. We could
22 do that on, under emergency actually, that particular
23 thing. If we had cause as a result of information that
24 we received, a study, an additional, we could do that.
25 Or we could try to do that under this, you know, in our

1 45 day, that actually could be done also.

2 BOARD MEMBER PAPARIAN: I don't want to bog down
3 the rest of this for this concern, but I would like our
4 staff to approach OEHA, present 'em with what we know
5 about these Canadian numbers and these numbers, and ask
6 them for a quick review to see if they think it's
7 appropriate.

8 MR. WATSON: Yes. That would be a consistent
9 comment, and the type of thing that we would want to have
10 in our formal rulemaking. So you've just given us
11 possibly our first comment in the formal rulemaking, so
12 we would pursue that.

13 BOARD CHAIR MOULTON-PATTERSON: So you will?

14 MR. WATSON: Yes.

15 BOARD CHAIR MOULTON-PATTERSON: You will --

16 MR. WATSON: Yes, we appreciate the comment and
17 we'll pursue it.

18 BOARD CHAIR MOULTON-PATTERSON: -- peruse the
19 information from OEHA.

20 Okay. With that we'll go to public comment.
21 Shawn Edgar. Is Shawn still here?

22 UNIDENTIFIED SPEAKER: No.

23 BOARD CHAIR MOULTON-PATTERSON: He's not, okay.
24 Larry Sweetser.

25 MR. SWEETSER: Larry Sweetser on, again on

1 behalf of the Environmental Services Joint Powers
2 Authority for Rural Counties.

3 For the most part these regulations work fairly
4 well for us. There's one aspect I need to bring to your
5 attention that does cause a number of concerns.

6 And for the most part the industry letter that
7 you have we are in support of except for this one issue,
8 and that's dealing with the piles of green material.

9 And as defined now, the green material covers
10 everything, whether it's a pile of leaves or brush or any
11 of those things.

12 The one issue that we have that's common
13 practice in rural areas is to, and a lot of it is due to
14 fire concerns and clearance requirements that you have to
15 chop down a number of trees, collect pine needles, other
16 things to clear it out for a fire break area. That pile
17 of material will typically sit in a rural area for six
18 months or more. And these regulations, as I understand
19 it at the moment, would actually subject it to the whole
20 fuel tier, and would cause a lot of concern, particularly
21 the sampling requirement.

22 You have a pile of trees sitting out there, I'm
23 not sure how you would take a representative sample of
24 that to meet these standards. So for that issue alone we
25 have some concerns for it. Hopefully we can address that

1 in the 45 day period.

2 The structure for the tiered permitting probably
3 won't impact them very much. The hundred cubic yard
4 limitation is a little bit too small for some of these
5 piles, the 12,500 will work for that, but again it will
6 subject us to those other requirements that would be a
7 problem in many of those communities. So we'd like you
8 to consider that as we go forward.

9 Thank you.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.
11 Matthew Cotton.

12 MR. COTTON: Good afternoon, Madam Chair,
13 members of the Board. Matt Cotton representing
14 Integrated Waste Management Consulting.

15 Very quickly I want to concur with the joint
16 CORC SWIG letter which I believe you all have copies of,
17 or I believe you should. I believe Chuck White and
18 possibly some of the other speakers are going to talk
19 some more in detail about that, I hope you've had a
20 chance to review that.

21 Fundamental in that letter is, I think an
22 assertion that there are significant technical
23 distinctions which, once made, much like my earlier
24 comments on the transfer regs, we need to make some
25 technical distinctions before we can go forward.

1 First among those are the tiered permits, the
2 structure of the tiers. Would you pass those out.

3 Some of you have seen this, some of you haven't.
4 This is a graph I made using the SWIS data from the Waste
5 Board database, the distribution of composting permits.

6 You really don't need to read it to see that
7 they're equally distributed pretty much right now, the
8 hundred or so facilities that we have right now.

9 I think this is a strong indication that the
10 tiered permits work and should be preserved. I think
11 they're an excellent tool. They were the first,
12 composting facilities were the first area to use the
13 tiered permits, we've used them now in other areas, and
14 they work really well.

15 I think this new reg package seeks to shove all
16 facilities in one direction or the other, and I think
17 that's a mistake.

18 If we're going to go that way, we've got to look
19 dlack at the distinctions of food waste and green waste
20 and clean green and food and all the various other
21 distinctions contained in the March, or I'm sorry, the
22 April 31st or whatever the most recent version is of the
23 informal draft.

24 Some of those things aren't important if we're
25 going to shove these all into a full tiered permit,

1 making those distinctions. If we're going to maintain
2 tiered permits, then I think we should. We're going to
3 look very carefully at those tiered distinctions.

4 Finally, the current informal draft regulations
5 deal with chipping and grinding. Essentially, as
6 presented by staff, that you're either, from a quick
7 reading you're either a transfer station or a compost
8 facility.

9 I think we got together and tried to slot
10 chipping and grinding facilities over a year ago because
11 they aren't transfer stations and they aren't composting
12 facilities, there's got to be a middle ground for
13 chipping and grinding facilities.

14 If you're accepting wood waste or green waste
15 for chipping to a biomass facility, keeping it more than
16 48 hours, it seems somewhat unnecessary to test that
17 material for pathogen reduction and metals testing if
18 it's going to be going for boiler fuel.

19 So I would urge that we look at a separate tier
20 for those facilities, and I think Larry mentioned some
21 issues with that, and to really properly set the tiers,
22 again we would ask that we take some more time on these,
23 solve some of these issues, or make some decisions before
24 we go forward.

25 Thank you very much.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you.

2 Chuck White.

3 MR. WHITE: Chuck White with Waste Management.

4 BOARD CHAIR MOULTON-PATTERSON: Then we have
5 Donald Gambelin and Paul Ryan.

6 MR. WHITE: Thank you, Madam Chair, and members
7 of the Board. Matt did mention this letter, you should
8 have all received a copy before today's meeting, but if
9 you didn't hopefully it was just passed out to you.

10 It is a joint letter from Allied Waste;
11 California Organics Recycling Council, CORC; California
12 Refuse Removal Council; Integrated Management Consulting,
13 Matt's group; NorCal Waste; Republic Services; SWANA; and
14 Waste Management.

15 All of us have been struggling to react to these
16 regulations. We think they're clearly moving in the
17 right direction, but we would just like and request the
18 Board to give us a little more time for the folks that
19 signed the letter and anybody else with direct informal
20 discussions with the staff before a final reg package is
21 brought forward to you for the 45 day public comment.

22 We think we are within striking distance, we
23 think we can come to an agreement as a group,
24 co-signatories. We're not quite there yet, and we just
25 would very much appreciate the additional informal time

1 to do that.

2 And Matt really summarized the major issues.

3 One is coming up with clear differentiation between food
4 waste and green materials, and making sure those are
5 properly slotted into the regulations. But they are
6 different materials and they should be handled
7 differently.

8 The general belief is also that the existing
9 compost regulations for compost facilities are adequate
10 and are appropriate. People have become familiar with
11 them, but the major problem, that is the slotting of
12 chipping and grinding, is something that really needs to
13 be done, and there's still these two kind of models, one
14 is the transfer station model or the slotting within the
15 compost reg model, or some kind of combination synthesis
16 of those two.

17 We think it's possible to get to that synthesis
18 pretty quickly, but we just would like to do that outside
19 of the formal 45 day notice period, give us a little more
20 time to come together on this, and hopefully bring
21 something back to you for consideration where there can
22 be almost virtual consensus and unanimity on the proper
23 approach as you go into the 45 day public comment period.

24 We think that would be, it's possible, and would
25 provide for a smoother process.

1 So we appreciate your opportunity to consider
2 this, and look forward to working with the Board as it
3 develops.

4 Thanks.

5 BOARD CHAIR MOULTON-PATTERSON: Donald Gambelin,
6 followed by Paul Ryan.

7 MR. GAMBELIN: Donald Gambelin, NorCal Waste
8 Systems.

9 And in the interest of time I do want to
10 apologize for repeating my testimony from January when
11 this same item was up but, you know, I'm somewhat
12 confused. I think, as we requested in the joint SWIG
13 CORC letter, that there needs to be a little bit more
14 stakeholder input, and a few more key issues resolved
15 before this package is really ready for the 45 day
16 review.

17 And I think during this period of time between
18 January and now it's, I mean it's unknown to me what sort
19 of stakeholder input was included. Not that I'm
20 offended, I'm just confused because we left in January
21 thinking that there definitely was going to be
22 opportunity provided by staff to work out these last
23 significant issues; instead it appears that from January
24 we just kind of let the regs cook around a little bit,
25 and now they're back essentially the same with still some

1 questions.

2 As Chuck White from Waste Management said, I
3 don't think we're far away on this package, and it
4 appears to be a decent package, but there's a few issues
5 that we'd still like a little bit of time with
6 stakeholder input. I hate to repeat that, but with
7 stakeholder input to work these out before they go out
8 for 45 day review.

9 Thank you.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you. Paul
11 Ryan. I'm getting these names mixed up.

12 MR. RYAN: Honorable Chair and Board members,
13 I'll be very brief. I agree with the other stakeholders
14 in regard to this matter.

15 We would like additional time to consider the
16 matter. However, I think it would be helpful for all of
17 us, in light of what's happened today, if we could get
18 some instruction from the Board itself on a date certain
19 when you'd like to see all of us get back with something
20 that is workable for everyone.

21 As you're as familiar as I am about this whole
22 regulation, it keeps seeming to swirl around, and it
23 would be helpful to sort of keep us all focused by
24 saying, hey, come back on such and such a date with the
25 issues resolved.

1 Thank you.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
3 Ryan.

4 Did staff have any comment about the public
5 comment?

6 MS. NAUMAN: Yes, Madam Chair. We'd like to
7 respond to the issue that was raised about stakeholder
8 participation, in particular, and then some comments on
9 the specific technical issues that were raised.

10 MR. WATSON: At the February Board meeting we
11 brought forth a draft, and after that meeting we sat with
12 several of the commenters. And so they have had an
13 opportunity to express some of their interests. At which
14 time we balanced those against the current draft that we
15 had in front of us and we made changes, many of the
16 changes that they requested. So there has been
17 substantial stakeholder input since the February draft.

18 We intend to use a 45 day comment period in the
19 same way. I have not been made aware of any issues,
20 including those issues in the letter from the joint
21 industry group, that are not very accessible to a 45 day
22 process; which would mean if we had some changes we could
23 even extend that by fifteen day processes per issue.

24 The issue about the silviculture piles and the
25 tree piles, it is highly unlikely that those would be

1 covered by these regs because they would not meet the
2 temperature requirements that we would have. It would be
3 difficult to find a 122 degree pile of brush because of
4 the amount of air in it. They do occasionally light off
5 when they have green material interfacing with dry
6 material, but it would be difficult to find that. So I
7 do not believe that would be a problem.

8 And we have a silviculture exclusion also, so I
9 don't think that would be too much of a problem.

10 And then the only other thing I can say is that
11 the 45 day comment period does allow for us to track very
12 nicely what issues that are consistent and moving in a
13 certain direction. So far the type of comments that
14 we've had have been moving back and forth, even from
15 separate portions of industry.

16 Thank you.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you. Okay
18 Board members? The decision you want is if we want to
19 notice it and go forward with it?

20 MR. WATSON: The staff recommendation would be a
21 starting point, or we can go back to the options and
22 discuss it.

23 BOARD CHAIR MOULTON-PATTERSON: Do I have any
24 input from Board members?

25 Mr. Medina.

1 BOARD MEMBER MEDINA: I think the only comment
2 that I have is that I would defer to the signatories to
3 the letter and ask staff to schedule further informal
4 meetings with the undersigned parties to discuss the
5 following issues prior to returning this item back to the
6 Board.

7 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
8 you, Mr. Medina. Excuse me.

9 Mr. Paparian and Senator Roberti and Mr. Eaton,
10 any objections?

11 BOARD MEMBER EATON: No.

12 BOARD MEMBER ROBERTI: No objections.

13 BOARD MEMBER PAPARIAN: Just in that time period
14 I'd like the OEHA thing discussed as well.

15 BOARD CHAIR MOULTON-PATTERSON: Okay. So are we
16 going to bring it back in May and you can have time, or
17 do you need a couple of months for more input?

18 MS. NAUMAN: May is our Mariposa meeting, so
19 perhaps June would be better.

20 BOARD CHAIR MOULTON-PATTERSON: June, okay. And
21 thank you for all your work, we appreciate it.

22 MR. WATSON: So for the purposes of aligning
23 CORC and the other signatories, they should then be aware
24 that the Board is expecting a position from them for the
25 purposes of --

1 BOARD CHAIR MOULTON-PATTERSON: Right.

2 MR. WATSON: Thank you.

3 BOARD CHAIR MOULTON-PATTERSON: So hopefully you
4 can get together and meet with them.

5 BOARD MEMBER PAPARIAN: To the extent you still
6 have any differences, if you could be clear as to what
7 those differences are and why you feel strongly that you
8 want to proceed the way you want to proceed.

9 MR. WATSON: The fact that a 45 day comment
10 period exists as an option to this group seems to have
11 helped in the movement toward a common position, so
12 that's what I'm basically trying to say is that we're
13 consistent in moving in that direction toward a June
14 date.

15 BOARD CHAIR MOULTON-PATTERSON: Okay. And
16 certainly we're not saying just the people that signed
17 the letter, any interested parties.

18 MR. WATSON: Thank you.

19 BOARD CHAIR MOULTON-PATTERSON: We still have
20 fifteen more items to go today, and I have had a request
21 to go to item number 37 on the low level radioactive
22 waste.

23 So if we could go to item number 37 we'd
24 appreciate it.

25 MS. NAUMAN: Item 37 is the discussion of the

1 Department of Health Services determinations regarding
2 low level radioactive waste and the Board's authority
3 regarding disposal of low level radioactive waste at
4 solid waste landfills.

5 Scott Walker will make the presentation.

6 MR. WALKER: Before I proceed on this item I'd
7 just like to mention that Dr. Kevin Riley of the
8 Department of Health Services is here to answer
9 questions, and I believe a representative from the
10 Department of Toxics Substances Control will be here
11 also.

12 This discussion item concerns the recent
13 disposal of contaminated soils with residual radiation to
14 a class one hazardous waste landfill.

15 And in response to this case there have been
16 questions as to the prevention and control of radioactive
17 materials at solid waste facilities, and the Board's
18 authority in relation to radioactive materials.

19 I'm going to cover very briefly just a little
20 bit of public health and regulatory background.

21 Second, the overview of the Boeing Rocketdyne
22 case which is being referred to.

23 And finally, a summary of some key issues and
24 findings.

25 The public health background, and again I'm not

1 an expert on radioactive materials and radiation, it's a
2 very complex topic, but there's a couple of points to
3 bring up that if the Board should have additional
4 questions DHS would be able to follow up.

5 Radioactive decay or radiation is a release of
6 energy under particles from the transformation or
7 disintegration of unstable isotopes. Severe acute and/or
8 chronic health effects can occur from exposure depending
9 upon the type of radiation, the dose, and the exposure
10 pathway.

11 The types include gamma rays, and then alpha or
12 beta particles. Each of these has varying degrees of
13 what's called attenuation. Shielding particles are
14 effectively shielded by materials to a certain extent.
15 And this relates to the potential hazard in case of
16 ingestion versus exposure.

17 Also, all radioactive materials, they are, they,
18 the dose or exposure drops off with distance, and so the
19 further you're away from the source the less exposure.

20 The other thing that's important is that
21 radiation is naturally occurring. And a typical human
22 background exposure has been referred to in terms of the
23 typical exposure factor which is 360 milligrams per
24 year. So this is something we're all exposed to under
25 normal conditions, and depending upon where you are, the

1 background may be higher or lower.

2 Regarding waste, radioactive waste, there's five
3 categories. And I wanted to just point out that the two
4 categories, low level radioactive waste and also
5 naturally occurring radioactive materials, these are the
6 two types that are of primary concern or potentially
7 encountered at solid waste facilities.

8 Low level radioactive waste is from industrial
9 research facilities. And also hospitals generate a
10 significant quantity of low level waste from treatments.

11 A brief statement on regulatory background. The
12 Department of Health Services regulates regulatory
13 materials site cleanups and low level radioactive waste.
14 They also issue approvals for alternative disposal
15 methods to other than a licensed low level radioactive
16 facility.

17 The Board has no regulatory authority over
18 radioactive waste, and this is spelled out in Public
19 Resources Code Section 43210.

20 Similar, to a certain extent it's similar to
21 hazardous waste in the sense that the Board doesn't have
22 the authority to regulate hazardous waste; but one thing
23 to point out, that in our load checking requirements for
24 solid waste facilities, these requirements require a
25 control of hazardous waste but not radioactive waste.

1 Radioactive waste is not referred to in that. Not just
2 landfills, but also transfer stations.

3 But also it's important to point out that many
4 facilities implement radioactive waste control programs
5 either on their own initiative or under local permit
6 conditions.

7 Many large landfills will actually have
8 automatic monitoring systems for the vehicles to come
9 through and get checked. And I believe we have a
10 representative from Los Angeles County Sanitation
11 District who might be able to provide some real life
12 world experience in that regard.

13 And then also the Board does coordinate with the
14 Department of Health Services and also local radiological
15 health departments. And we do encounter with our LEAs,
16 you know, from time to time radioactive materials. And
17 when we do, we contact those entities because they have
18 the authority and they make the determinations as to the
19 appropriate public health measures to be taken.

20 Another aspect too is that U.S. EPA has an
21 emergency response group, and they have a lots of
22 expertise in radioactive waste. In particular, not
23 facilities, but our closed, illegal, and abandoned sites
24 program, we've had some cases, and the 38th Street burn
25 dump is the one that's the most prominent, where we have

1 encountered radioactive materials pretty significant
2 levels.

3 And at 38th Street our staff had encountered
4 that from some significant sources, and we brought in
5 U.S. EPA emergency response, and they secured the site
6 and did all the appropriate removal on that.

7 So we still monitor some of these older sites to
8 ensure that appropriate measures are taken and may, and
9 would contact one of those entities.

10 The Boeing Rocketdyne case, that is a Department
11 of Energy lab, laboratory site cleanup project in Ventura
12 County, Santa Susana Field Laboratory it's called, I
13 believe. At that site there were contaminated soils with
14 residual radioactivity. They were approved for disposal
15 at the Buttonwillow class one hazardous waste landfill,
16 and both the Department of Health Services and the
17 Department of Toxics Substances Control concurred with
18 that measure.

19 This brings up the tie-in in this particular
20 site, because the soils that were approved by DHS were
21 approved for what's call unrestricted use based on the
22 radioactive, the residual radioactivity.

23 And before I mention the background, human
24 background of 360 milligrams per year, well the DHS
25 determination here that they applied here was called

1 fifteen milligram per year above local background.

2 And when DHS makes that determination, that
3 indicates that there basically is no need for further
4 action, there's no significant risk regardless if the
5 soil's moved to another location. And again, with DHS
6 here they may elaborate further on that as the Board
7 needs.

8 One thing that's important to bring up about
9 this case too is that these soils had hazardous levels of
10 metals in them, and so they would have required class one
11 disposal regardless of whether there was some
12 radioactivity, and therefore were prohibited from solid
13 waste landfill.

14 If, again, if the metals weren't in there, it
15 wouldn't have been restricted to a, solid waste
16 facilities.

17 To summarize some of the key issues, four key
18 issues and findings:

19 One thing that we determined is that based on
20 the information in this case, there's a need to find out
21 more about the DHS approval process for unrestricted use,
22 and also the alternative disposal methods determinations,
23 in the sense that some of these may end up or may
24 actually be specifically approved for solid waste
25 facilities.

1 And the question also is that, tied to that is
2 that is the Board or a local enforcement agency
3 adequately involved in or notified of that process.

4 We also would like to explore or find a need to
5 explore specific cases identified where DHS has approved
6 either the alternative disposal method or unrestricted
7 use where these materials would have gone, you know,
8 specifically to a solid waste facility. And right now
9 our documentation is limited in terms of confirming cases
10 where that's occurred.

11 The third point is that, is a question to bring
12 forth, and that is should the Board's load checking
13 standards be amended to control radioactive materials?
14 And I think that's a question that has come up.

15 And then finally, what are the appropriate
16 radiological health standards and agency coordination
17 procedures at solid waste facilities? And that's an
18 aspect of further work with DHS and the other agencies
19 that we have pointed out is a key issue and finding.

20 With that, that concludes the staff's
21 presentation. And staff is available to answer
22 questions.

23 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

24 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

25 Let me make sure I understand this. The fifteen

1 milligrams you talked about, that was fifteen milligrams
2 as a reading or fifteen milligrams above background?

3 MR. WALKER: Well I'll make a quick statement
4 and then I'll defer to DHS. That would be fifteen
5 milligram per year above the local background.

6 BOARD MEMBER PAPARIAN: What's local background,
7 California or --

8 MR. WALKER: Well I would have to defer to DHS
9 on what the local background at that site was, and I'm
10 not sure whether DHS would be able to respond to that.
11 But I know that the average local background human
12 exposure, I've seen references on the order of 360
13 milligrams per year is a typical number used.

14 BOARD MEMBER PAPARIAN: Okay. So then if it had
15 375 versus 360 it could be --

16 MR. WALKER: Presumably that would be correct.

17 BOARD MEMBER PAPARIAN: Okay. And then I
18 understand some of this type of material wound up at the
19 Bradley Landfill, the waste management facility in the
20 San Fernando Valley.

21 MR. WALKER: We have not been able to confirm
22 specifically, talking to both the local enforcement
23 agency and also the operator, of any radioactive
24 materials that they're aware of that entered the site.

25 Now there is some reference to some materials in

1 some documentation related to the cleanup that went to
2 the Bradley Landfill.

3 I do believe we have a representative from Waste
4 Management that is here that may be able to respond to
5 that. But based on our investigation of the LEA and the
6 operator, there was no confirmation that radioactive
7 materials were accepted there.

8 BOARD MEMBER PAPARIAN: Okay. And so again, we
9 don't have a way of tracking, we're not informed when
10 something is released to go to one of the solid waste
11 landfills?

12 MR. WALKER: I'm not aware that we have any,
13 that there's a process in place whereby we are informed
14 of that. I'm not aware of that.

15 BOARD MEMBER PAPARIAN: Okay. Thanks.

16 BOARD CHAIR MOULTON-PATTERSON: Okay. We have
17 two speaker slips if -- are there anymore questions or
18 comments before? Okay.

19 Grace Chan. Los Angeles County Sanitation
20 District.

21 MS. CHAN: Good afternoon, Madam Chair and Board
22 members. My name is Grace Chan, I'm here representing
23 Los Angeles County Sanitation Districts.

24 And we currently operate three municipal solid
25 waste landfills, up until recently four. And for all of

1 those sites we've had a radioactive waste screening
2 program in place for almost twenty years now. And I'd
3 just like to give you a brief overview of our experience
4 with that.

5 Back in 1982 we installed gamma scintillometers
6 in our weigh scale houses, and they scan the trucks as
7 they go over the scales. In the beginning when we put
8 these in we got fairly frequent, not necessarily frequent
9 but regular triggers, and we worked with the local
10 radiological health section to raise the trigger level,
11 because almost always when we triggered that alarm it was
12 traced to the driver who had had either medical testing
13 or medical treatment.

14 We wanted to set the level such that we would
15 catch the loads that were coming in, but not necessarily,
16 you know, have the thing go off frequently due to the
17 driver testing. So that was raised a little bit. And
18 since that time the alarm has been triggered about, oh,
19 an average of about one incident per year, and that's for
20 all the sites collectively.

21 It is still most often traced to the driver;
22 however the last incident was over a year ago, and it
23 happened to be cat litter waste. It was a cat that had
24 received one iodine treatment at the vet, the vet had
25 advised the owner to use flushable litter, and the pet

1 owner apparently didn't feel that that was the right
2 thing to do, so she collected it and then threw it away
3 at the end of the month period, and that was picked up in
4 our program.

5 The procedure that we follow when a load is
6 picked up like that is, first we have the truck go back
7 over the scales to confirm the detection. And then we
8 notify the local agency in charge of radioactive waste to
9 come out. The load is sent to an isolated area where
10 it's dumped. And then we go through it as well as the
11 other local agency with our meters. If there is waste
12 there, it's hauled off-site, either sent back to the
13 generator, or if that's not possible, off to a handling
14 facility.

15 So overall I guess our feeling about the program
16 is that we, it's confirmed to us we don't see this waste
17 coming to our sites very often, but that when they do
18 come we have the equipment to Detect it.

19 With respect to the release of materials from
20 regulation from the agencies that normally regulate
21 radioactive waste, I was involved in a proposal by the
22 Nuclear Regulatory Commission several years ago, in
23 1999. At that time they were, they were planning on a
24 large scale decommission of nuclear reactors, and were
25 proposing to release material to the solid waste

1 stream. They took the position that, you know, that made
2 sense because it was in conformance with Subtitle D.

3 We had a lot of concerns about that proposal.
4 First of all, because most if not all of the landfills in
5 California operate under more stringent requirements than
6 Subtitle D, both imposed at the state levels as well as
7 the local level.

8 The other concern we had was that they hadn't
9 quantified the amount of material they anticipated would
10 be flowing possibly to class three landfills, and hadn't
11 assessed the capacity that was available to handle that
12 material.

13 And last but certainly not least, we urged them
14 to conduct a thorough public information program.
15 Because, as landfill operators we're very sensitive to
16 the public. We want to inspire the confidence of the
17 public that we're operating our facilities in a sound
18 way, and we had difficulty getting information, much less
19 the public at that time.

20 So the results of all that effort was that it
21 was highly controversial nationwide, and that proposal
22 never went anywhere.

23 So I'm not an expert either, but I'd be happy to
24 answer any questions.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.

1 Chan, for coming and sharing that with us.

2 Any questions of Ms. Chan?

3 Okay. We have Daniel Hirsch, Committee to
4 Bridge the Gap.

5 MR. HIRSCH: My name is Daniel Hirsch, I'm
6 President of the Committee to Bridge the Gap. It's an
7 organization that attempts to provide technical
8 assistance to communities that have nuclear projects near
9 them.

10 My background is that I'm the former director of
11 the Stevenson Program on Nuclear Policy at the University
12 of California, Santa Cruz. Two other groups wished to be
13 here but because of the timing were not able to, and have
14 asked me to indicate their support that you act to
15 reaffirm the policy you've had since the early nineties
16 to bar radioactive materials from being disposed of at
17 unlicensed facilities under your responsibility. And
18 that's the Sierra Club and the Los Angeles Chapter for
19 Physicians of Social Responsibility.

20 Let me give you a little bit of background about
21 this issue. As was just mentioned, the Nuclear
22 Regulatory Commission has proposed or had proposed at one
23 point to deregulate a large fraction of its low level
24 radioactive waste stream. They've done it again
25 recently, but the primary time occurred in about 1990.

1 And at that point this Board went on record
2 opposed to that proposal. And a member of the Board, Wes
3 Chesbro, went to Washington and testified before Congress
4 to block that policy of Deregulated radioactive waste and
5 opening your facilities up to those wastes.

6 Congress in 1992 overturned the NRC policy, said
7 that they are below regulatory concern, the policy was
8 barred, and no such new policy has been adopted since
9 that time.

10 In 1993 the State Health Department, Mr.
11 Bailey's organization, Mr. Bailey is here in the
12 audience, wrote to this, the Department of Energy
13 expressing its concern that there were reports that there
14 had been releases of radioactive waste to unlicensed
15 facilities.

16 The Department of Energy wrote back at that time
17 committing that the Department of Energy will not allow
18 disposal of any soil or debris with DOE, meaning
19 Department of Energy, added radioactivity in any
20 commercial parentheses (municipal) end parentheses
21 hazardous waste landfill.

22 After that time -- that's basically been the
23 situation. The DOE has said that this material will not
24 go to your landfills; the Nuclear Regulatory Commission
25 was barred from permitting it to happen; and the public

1 understanding has been that that has been the case, and
2 it's been a position that your Board has taken for a long
3 time.

4 About a year ago at the Department of Energy
5 nuclear facility in Santa Susana, I serve on the
6 oversight panel of the cleanup as a community
7 representative, we discovered that material with residual
8 radioactivity was being released from that site.

9 The Department of Energy gave us documents
10 indicating that they had shipped material to the Bradley
11 Landfill, they had given concrete blocks to a local
12 ranch, the Santa Clara Ranch, and had given contaminated
13 metals to the Prowler metal recycler to melt down and use
14 as consumer goods.

15 These are materials that were admitted as having
16 residual radioactivity, but they had somehow managed to
17 reverse themselves and adopt this below regulatory policy
18 that they had committed not to doing. And this was quite
19 shocking and a good deal of concern.

20 Then came the issue of the soils from that
21 site. And you just heard about that as well, soils that
22 the license, the company itself conceded had
23 radioactivity above background was shipped to an
24 unlicensed facility.

25 Now the reason for all of this is that it saves

1 money. It's a little cheaper to send it to your
2 municipal landfills than to a licensed radioactive waste
3 disposal site. It's cheaper to send it to a hazardous
4 landfill if there's hazardous materials in it rather than
5 to a mixed waste facility that is supposed to take
6 hazardous and radioactive.

7 In response to a concern by State Senator Kuehl
8 and U.S. Senator Barbara Boxer, the Department of Health
9 Services and the State Department of Toxics Substances
10 Control sent a letter to the two senators indicating that
11 its policy is a very broad policy in which material, if
12 it has residual radioactivity contamination above
13 background, we're not talking kitty litter, we're talking
14 parts of reactor buildings that have been torn down,
15 contaminated soil from nuclear facilities of the federal
16 government or commercial entities. That if there is
17 radioactive contamination in that material below a
18 certain level, which is a very high level, they will
19 permit it to be shipped to 170 or so of your municipal
20 waste dumps; without notice and without a license and
21 without approval for your facilities.

22 This is a very significant health risk. The
23 numbers that the Department of Health Services are using
24 for this release are the equivalent of a dose to a person
25 living near one of these facilities of 175 additional

1 chest x-rays over one's lifetime.

2 That means anybody who would be exposed, it's
3 the equivalent of having to go every five months of your
4 life for a chest x-ray from the moment you are being
5 carried by your mother, when you are the most vulnerable
6 to radiation as a fetus, through infancy when you're very
7 susceptible as well, on into old age when you're also
8 very susceptible. Your entire life having to get, every
9 five months, an additional medical chest x-ray for no
10 medical reason without your knowledge, without your
11 consent, and with no benefit from it, in order that the
12 industry can save disposal money.

13 The standard that the agency says it will use
14 for release of materials from these contaminated sites to
15 your landfills is if it is estimated that if you left
16 that material at the site of origin the dose would be no
17 more than 25 milligram per year, or two and a half chest
18 x-rays each year you're alive. And that's primarily from
19 ingestion and inhalation.

20 You've heard about the facilities having
21 detectors. They would not be able to pick this up. The
22 detectors are set at two or three times background. The
23 levels of concern are way below that. If there's a
24 strong source buried in the midst of a large garbage
25 truck it's not going to be picked up by these detectors.

1 And we have proof of that.

2 The Bradley Landfill did not know it was
3 receiving material that the Department of Energy said it
4 was sending that was contaminated.

5 So it's a significant problem, and there is
6 legislation that has been introduced by Senator Kuehl to
7 protect your facilities. And I would urge this Board to
8 support that.

9 The second item. You have essentially disputes
10 with a sister agency. We have a law in this state that
11 radioactive waste is supposed to go only to facilities
12 licensed for radioactive waste.

13 This agency, through a letter, not a regulation,
14 not a statute, no CEQA Coverage, no notice to you, has
15 deregulated a large part of the radioactive waste stream
16 and opened your facilities up, and turned your 170 or so
17 landfills into unlicensed radioactive waste dumps without
18 the public's knowledge, without any other kind of
19 approval.

20 And I would strongly urge this Board to go on
21 record opposed to this, and take the matter through your
22 channels to the Governor's office, and resolve this
23 dispute that exists between you and your sister agency.
24 They should not be dumping their radioactive waste in
25 your facilities that are not licensed or designed for it.

1 And lastly, I think that the Board should
2 reaffirm the policy they had before. And if there are
3 new federal efforts to try to open these facilities, you
4 should do what you did in the early nineties and made
5 clear to the Congress that that should not happen.

6 Radioactive waste should go to facilities
7 licensed for radioactive waste. I can't throw a used
8 paint can into a municipal land dump, as I understand it,
9 at the landfill, but we can now take cut-up parts and
10 nuclear reactors and ship them there. That makes
11 absolutely no sense.

12 Let me give you a couple of quick numbers and
13 then let me close and you may have some questions. The
14 standard that is being proposed here for a facility that
15 is being cleaned up, 25 milligram per year, again
16 measured and estimated as a dose, not where they're
17 sending it to, one of your landfills, but estimated at
18 the site where the contamination currently is. So that
19 the dose could be much larger to your facilities. That
20 figure is, by the agency's official estimate, sufficient
21 to produce a lethal cancer in one out of every one
22 thousand people exposed. So that's a thousand times
23 higher risk than we permit of any other carcinogen.

24 And that standard that they have adopted via
25 letter is that each shipment would be permitted if that

1 shipment would be the equivalent of 25 milligram.

2 So a couple of numbers to remember. Under the
3 regulations, a licensed nuclear waste dump is not
4 permitted to produce more dose to the public, from all of
5 its shipments combined, thirty years, thousands of
6 shipments of more than 25 milligram per year to a member
7 of the public.

8 So under their new policy, a single shipment to
9 any of your unlicensed facilities will be permitted to
10 produce as much dose as would be permitted from a
11 licensed radioactive waste facility from all the
12 shipments that it would receive collectively.

13 Second number to remember. The same agency that
14 has now done this via letter in the last few months
15 estimated that the proposed licensed radioactive waste
16 facility of Ward Valley which is a very controversial
17 facility, would, from all of its waste shipments
18 combined, produce no more than two milligram per year
19 exposure.

20 So this policy that the agency is now trying to
21 put forward would permit each of your 170 facilities and
22 each shipment to them to produce twelve and a half times
23 the radiation dose that a licensed facility would receive
24 from all of its shipments combined.

25 This is wrong, it is dangerous, you can stop it,

1 I don't know who else can.

2 And so I ask you to reaffirm what your position
3 had been a decade ago, to go to the math and the
4 Governor's office, and get this interagency squabble
5 resolved to protect your facilities, support the fuel
6 legislation, and if there's any effort in Congress to do
7 what happened a decade ago, take the same position you
8 took then.

9 There's serious health risks if this policy
10 continues. One minor additional item, they have a second
11 standard which is that an operating facility can be
12 shipped, its waste can be shipped if each shipment is one
13 milligram. So each shipment from an operating facility
14 would be permitted to produce half the dose Ward Valley
15 would have been permitted from all of its shipments
16 combined. And again this is cumulative, everytime you
17 ship one thing you add more so the dose becomes larger
18 and larger.

19 Radioactive waste should go to facilities
20 licensed to receive those wastes. We should not use
21 municipal landfills as unlicensed disposal facilities for
22 radioactive materials.

23 Thank you.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
25 Hirsch.

1 Senator Roberti.

2 BOARD MEMBER ROBERTI: Yeah, in meeting with you
3 and later with the Department of Toxics, you had
4 indicated that radioactive material had been deposited in
5 some landfills and specifically you mentioned to your
6 knowledge the Bradley Landfill.

7 Toxics, when I met with them, ex partying all
8 these conversations, I believe and hope, I met with them
9 later and they said no, that wasn't the case, that they
10 knew nothing of that.

11 Could you elucidate on the Bradley situation and
12 any other situations you may know of?

13 MR. HIRSCH: As I say, I serve on the oversight
14 panel for the Santa Susana field laboratory, and the
15 Department of Energy operates the facility, at least
16 according to this chart, and I'll provide this to the
17 Board, of the places where they have sent materials from
18 the radiological cleanup of the Santa Susana lab. And it
19 indicates as landfills, Bradley Landfill and the
20 Kettleman Hills facility.

21 There's an article in the Los Angeles Times of a
22 year or so ago by Frank Clifford, he confirms it in the
23 article, he contacted Bradley, they said they were
24 unaware of it, but he had, he confirms the article from
25 Rocketdyne, the company that operates the Santa Susana

1 lab that they'd sent it.

2 We have, in a meeting that we had recently with
3 the Department of Health Services, we were informed by
4 Dr. Riley from whom I hope you will hear shortly, that
5 this has occurred multiple times in the past.

6 We have requested that they provide us
7 documentation of the shipments to your facilities of
8 radioactive materials, and have not yet received them. I
9 understand that your Board staff has also requested them,
10 and you don't have that yet.

11 But we were informed this has occurred multiple
12 times. So we have documentation about Bradley, and we
13 have the department's assertion that it has done this
14 frequently or at least multiple times previously, and you
15 have the letter that they issued in December or January
16 in which they say that it's their policy that this is
17 permitted to all of your facilities.

18 BOARD MEMBER ROBERTI: Thanks.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
20 Hirsch. I only have one other speaker slip, did you say
21 there's a Dr. Riley?

22 MR. HIRSCH: I don't know if he's here to speak,
23 but Dr. Riley is here from the Department of Health
24 Services.

25 BOARD CHAIR MOULTON-PATTERSON: Okay. Why don't

1 we go ahead and take you right now, and then Chuck White.

2 Thank you, Mr. Hirsch.

3 MR. RILEY: Thank you, Madam Chair and Board
4 members for the opportunity to speak. A few things.

5 First of all, I wanted to address this issue of
6 unconditional release or unconditional use. It's a very
7 unusual circumstance.

8 In fact, the Department of Health Service does
9 have jurisdiction authority over radiological materials,
10 radioactive materials in the State of California. And
11 when we work with radioactive waste for disposal, it goes
12 to radioactive waste facilities for disposal, except
13 under one very specific exemption in state law.

14 It requires that the department do an
15 assessment, if you will, to determine if this poses a
16 significant health and safety risk or environmental
17 health risk by releasing this material.

18 In reviewing over the last five to ten years we
19 have identified three circumstances where that was the
20 case. In only one of those circumstances did the
21 material go to a municipal landfill.

22 And let me give you a little detail on that
23 circumstance. This related to the Stanford Linear
24 Accelerator which was decommissioned a while, back and
25 there was some concrete apparently associated with

1 that --

2 BOARD MEMBER ROBERTI: Excuse me, that was the
3 Stanford --

4 MR. RILEY: Linear accelerator. It's a facility
5 under the Department of Energy jurisdiction.

6 BOARD MEMBER ROBERTI: Yeah, you called it the
7 near accelerator?

8 MR. RILEY: The linear.

9 BOARD MEMBER ROBERTI: Linear, linear, okay.

10 MR. RILEY: When this facility was
11 decommissioned there was some concerns about
12 contamination of some of this concrete. We did modeling,
13 a standard procedure done in radiologic health, and came
14 up with a maximum limit or maximum exposure level of less
15 than one milligram per year, low dose.

16 We concurred with the Department of Energy's
17 decision in releasing that, and it went to a local
18 municipal landfill. The Department of Energy had
19 ultimate jurisdiction there.

20 We went ahead, and in collaboration with them,
21 took a look at what the risk was, came up with some
22 similar findings, and concurred with their decision to
23 release this. That's the only example that we can find
24 in the last five to ten years.

25 We're going back, based on a public records

1 request, from Mr. Hirsch's organization to see if we have
2 anything prior to that going back into the eighties. The
3 state law dates back to the sixties, and we're just
4 basically trying to find examples where this may have
5 happened. We're only aware of three at this point.

6 This is the only one where the material was
7 disposed of at a municipal landfill.

8 BOARD MEMBER ROBERTI: Where radioactive
9 material was disposed of at a municipal landfill?

10 MR. RILEY: Well, there was some residual
11 radioactivity, but it was very low residual
12 radioactivity. As I mentioned, less than one milligram
13 per year.

14 BOARD MEMBER ROBERTI: In regards to the
15 Stanford Linear Accelerator?

16 MR. RILEY: Correct.

17 BOARD MEMBER ROBERTI: And where was that
18 disposed?

19 MR. RILEY: At the Buttonwillow municipal
20 landfill, I believe the county landfill.

21 BOARD MEMBER ROBERTI: In Santa Clara County?

22 MR. RILEY: Correct.

23 BOARD MEMBER ROBERTI: Therefore, you don't
24 believe that radioactive material was disposed of at the
25 Bradley Landfill?

1 MR. RILEY: I'm not aware of that. That was not
2 an action on the part of the Department of Health
3 Services.

4 The Department of Energy was involved with the
5 decommissioning of the Santa Susana site, and I can't
6 comment on what may have happened with the Department of
7 Energy.

8 BOARD MEMBER ROBERTI: Well, would the
9 Department of Energy have jurisdiction to authorize this
10 irrespective of the Department of Health Services
11 sign-off?

12 MR. RILEY: Above and beyond the Department of
13 Health, yes. It gets complicated. In terms of the
14 federal and state law, we have mutual jurisdictions, if
15 you will, in some cases. I can bring Dr. Bailey up, he
16 has a little bit more specific knowledge of --

17 BOARD MEMBER ROBERTI: Yes, I would like to hear
18 that, because what you appear to be telling me is that
19 within your jurisdiction you only know of one situation;
20 but if there are other agencies that are allowed to
21 dispose in public landfills radioactive material of
22 various quantities, then the problem should be more, more
23 numerous, and certainly way more serious, because we
24 don't have a handle on who's authorizing all of this.

25 MR. RILEY: I think Dr. Bailey can speak

1 specifically to that issue.

2 BOARD MEMBER ROBERTI: And Dr. Bailey is with
3 the Department of Energy or DHSS?

4 MR. RILEY: He is the chief of the Radiologic
5 Health Branch with the Department of Health Services.

6 BOARD MEMBER ROBERTI: Thank you.

7 MR. BAILEY: The question about whether or not
8 the Department of Energy has the authority to authorize
9 the disposal within California; they do not if it's not
10 on their land. In other words, if it were on their land,
11 they would have authority to regulate the material.

12 We have maintained that once they give it to
13 someone other than the Department of Energy, such as a
14 waste broker or whomever, then it comes under the
15 regulation of the State of California.

16 Historically the Department of Energy has had a
17 somewhat high-handed attitude about their dealing with
18 their radioactive material. At this point, and it's been
19 occurring for the last few years, the Department of
20 Energy is seeking concurrence from us on any releases of
21 material that are contaminated in any way. And they
22 don't dispose of 'em unless they get concurrence from the
23 State of California.

24 BOARD MEMBER ROBERTI: And that policy has been
25 in effect since roughly how long?

1 MR. BAILEY: Well it's really not a policy, it's
2 a thing that has evolved. And that basically in the last
3 five years, anytime they wanted to release material they
4 have come to us prior to releasing it to get concurrence.

5 They had had standards before under DOE
6 regulations and orders that said okay, we will consider
7 this material not to be radioactive if it meets this
8 criteria, and they would release under that.

9 We said that's not acceptable, we want to look
10 at it up front, we want to be able to make, to take
11 samples at the same time you do, and make determinations
12 prior to your releasing it.

13 And they are presently doing that.

14 BOARD MEMBER ROBERTI: Well what, specifically
15 on the Bradley Landfill, which I'm not just merely
16 concerned with that, but it's an example that if I can
17 sort of ferret this out maybe I can understand the
18 situation better, that I don't believe is on the
19 Department of Energy control.

20 MR. BAILEY: As far as I know it's not.

21 BOARD MEMBER ROBERTI: So we still have sort of
22 a question mark of what's happening there.

23 MR. BAILEY: Right.

24 BOARD MEMBER ROBERTI: Obviously it doesn't fall
25 into this Department of Energy exception which is a very

1 interesting, and one of concern; but it appears that
2 there is some authority, it may be correct or not
3 correct, but some authority in both print and in the
4 testimony now that the Bradley Landfill has been the
5 repository for radioactive material.

6 MR. BAILEY: We are looking into that. We, the
7 Department of Health Services, was not asked to look at
8 any disposal to the Bradley Landfill to my knowledge, but
9 that's one of the things that we're looking into.

10 BOARD MEMBER ROBERTI: For the members of the
11 Board that may not be aware, the Bradley Landfill at the
12 moment is the main landfill for the City of Los Angeles.

13 Thank you.

14 BOARD CHAIR MOULTON-PATTERSON: Any other
15 questions for the speaker? Mr. Paparian.

16 Mr. Bailey, if you wouldn't mind coming back up
17 for a moment.

18 BOARD MEMBER PAPARIAN: I take it then, Mr.
19 Bailey, that you've seen the same materials Mr. Hirsch
20 was holding up that suggest some documents suggesting
21 that material did go to the Bradley Landfill?

22 MR. BAILEY: I don't know if I have seen the
23 specific document that he was holding up. I have heard
24 that material went to the Bradley Landfill. I have heard
25 that it went to a certain ranch and so forth. And to a

1 school, the material that went to a school, or some
2 trailers.

3 We surveyed those trailers. They were not
4 radioactive, unfortunately they did contain asbestos and
5 the Department of Energy took them back.

6 But there are all of these statements about
7 materials left the site, a site where regulated materials
8 were used.

9 I think the question is, were those materials
10 that left either contaminated with radioactivity or were
11 they radioactive materials themselves? And that's some
12 of the things that we have to look into.

13 BOARD MEMBER PAPARIAN: When Mr. Riley suggested
14 that when making the decision about whether to release
15 materials, an assessment is made of the environmental
16 health and safety risk, the environmental risk, and so
17 forth.

18 When you do that, do you take into account the
19 construction of a landfill that is a landfill, you know,
20 the landfill has a liner underneath and, you know, it is
21 constructed to certain standards.

22 Or is that, do you take into account that it
23 might be going to a landfill and the landfill is
24 constructed in a certain way, and therefore you feel like
25 the material will be contained in that landfill?

1 MR. BAILEY: Generally we do not give credit for
2 things like liner containment when we do our
3 calculations. When we do the waste calculations, we give
4 no credit for containers or liners. We will look at
5 geological things.

6 I think that when we look at the release of
7 material, such as of the three cases that Dr. Riley
8 mentioned, we did try to factor in where the landfill
9 was, if it was going to a landfill, for instance. And
10 use, if we did not have site specific parameters,
11 conservative default assumptions regarding the geology
12 and hydrology of that site.

13 BOARD MEMBER PAPARIAN: Okay. So the
14 conservative assumption would be to assume either no
15 liner or a liner failure?

16 MR. BAILEY: Well we never consider a liner.

17 BOARD MEMBER PAPARIAN: Okay. But then how do
18 you, do you take into account the proximity of
19 groundwater?

20 MR. BAILEY: Yes.

21 BOARD MEMBER PAPARIAN: And when, so when you
22 release material you know where it's going and you know
23 the groundwater configuration under the facility, how
24 close it is to groundwater and so forth?

25 MR. BAILEY: Okay. The one case that we looked

1 at, which was the Stanford site, I would have to -- we're
2 in the process of reviewing that. I don't know whether
3 in that particular case we used default values or actual
4 site depth to groundwater conditions.

5 BOARD MEMBER PAPARIAN: What would a default
6 value be for groundwater? I mean you don't have to give
7 me an exact number, but help me understand what that
8 means.

9 MR. BAILEY: The default value would say that
10 the depth to groundwater from the bottom of the disposal
11 unit is fifty feet, a hundred feet, or whatever. I'm
12 sorry that I don't know personally what that default
13 value is, but it's something that we can find, I can get
14 for you.

15 BOARD MEMBER PAPARIAN: I believe our current
16 standards, and Scott, you can help me if I'm wrong, just
17 FYI, is that there has, it's not our standards, I guess
18 it's the Water Board's standards, it's a five foot
19 separation from the bottom of the landfill to the top of
20 the groundwater?

21 MR. WALKER: Correct, five feet.

22 BOARD MEMBER PAPARIAN: The 25 milligrams that
23 Mr. Hirsch was talking about, in your view is that
24 accurate that a load, you know, that 25 milligrams over
25 background could wind up at one of our facilities?

1 MR. BAILEY: If I may, let me explain what we
2 really do. When we have a site that's being
3 decommissioned, that is a site that, where the, let's say
4 the dirt is contaminated at that facility, they are
5 required to clean that up to the level of 25 milligram a
6 year. And that is considering all the radiation pathways
7 for someone living on the site.

8 In other words, you have a site such as the
9 Santa Susana or any other place where there is
10 contamination. In order to meet that 25 milligram, what
11 you have to do is assume that the radiation that's left
12 there would not result in more than 25 milligrams to a
13 person living on that site, growing vegetables on that
14 site, drinking water from that site every day of the
15 year. So they dig out that portion, and that goes to a
16 radioactive material site.

17 After that, we cannot think of a conceivable
18 scenario where that can increase to more than 25
19 milligrams. If it goes to a waste site, you're certainly
20 not going to have, hopefully, a family living directly on
21 top of your waste site. They're not going to be eating
22 vegetables grown on the waste site. So any dose
23 subsequent would be much less than 25.

24 BOARD MEMBER PAPARIAN: So your theoretical
25 maximum dose, if you will, of the material that could

1 wind up in the solid waste landfill is, if I plop a shack
2 on top of the landfill, I could get 25 milligrams per
3 year, that's what you're -- or on top of the waste?

4 MR. BAILEY: Well that would assume that the
5 dirt is sitting there, that pile of dirt, all of the dirt
6 is taken there, it would have to be a large amount of
7 dirt; yes, that you built a house on top of it; that
8 there was never any cover on that site; that you grew
9 your vegetables there; you harvested 'em and ate them;
10 you put down a water well beneath that layer of
11 contamination; and you got water that was contaminated
12 from infiltration of rainwater, whatever, through the
13 radioactive material or the dirt, whatever, redissolving
14 the radioactive material, transporting it down to the
15 groundwater level, and then coming back up in the
16 drinking water.

17 So it's a very conservative model. All of these
18 things have to be occurring at the highest rate that we
19 can calculate that they would occur for you to exceed 25
20 milligram, you add 'em all together.

21 BOARD MEMBER PAPARIAN: And then Mr. Hirsch was
22 talking about the two milligram figure at the proposed
23 Ward Valley facility versus 25 milligrams. Did you want
24 to respond to that?

25 MR. BAILEY: The actual requirement for the Ward

1 Valley site in regulation was the nearest resident dose
2 of 25 milligram per year.

3 When the actual performance evaluation was done
4 of the site, what was going to be the dose from that site
5 based upon the very site specific geology and hydrology
6 and so forth, plus an estimate of all the material that
7 was going to be put in there, the calculated estimated
8 dose from the operation of that site was around, as I,
9 and he may be right, it was two milligram or less per
10 year.

11 All that was saying is that that site was a very
12 good site for bearing radioactive material; that it was
13 two or, that it was an order of magnitude below the
14 annual dose limit.

15 BOARD MEMBER PAPARIAN: Okay. And then I, this
16 is not something we normally do but I'm just, I want to,
17 while you're up here, if the staff has any questions that
18 they can feel like, do you feel like you got the
19 information you need?

20 MR. WALKER: From staff's standpoint I think
21 we'll be needing to have some more dialogue on some of
22 these issues with DHS in the future. And that's, I think
23 basic questions here are backing up what we knew before
24 going forward. So we will just continue to dialogue with
25 DHS.

1 BOARD MEMBER PAPARIAN: Okay. Thanks.

2 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you
3 very much.

4 MR. RILEY: Madam Chair, if I may, we're very
5 happy to share materials with staff. We had no inquiries
6 for specifics to provide staff in preparation for the
7 meeting today, we have copious amounts of material that
8 we're more than happy, addressing the very specific
9 issues of the Rocketdyne and the Santa Susana
10 circumstances. So I just wanted to suggest that DHS is
11 very open and interested in sharing and helping the Board
12 in making decisions.

13 BOARD CHAIR MOULTON-PATTERSON: We appreciate
14 that very much, thank you. Thank you for being here.

15 Our next speaker -- oh, excuse me, Mr. Medina.

16 BOARD MEMBER MEDINA: Madam Chair, I just want
17 to suggest that as Board members go out to do landfill
18 site visits, we should wear one of those badges that
19 indicates whether there is radioactivity present.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you.

21 Chuck White.

22 MR. WHITE: Thank you, Madam Chair and members
23 of the Board. Chuck White with Waste Management.

24 Given that we're the owner and operator of the
25 Bradley Landfill, I thought perhaps I ought to get up and

1 speak a few words to this issue.

2 Waste Management and the Bradley Landfill are
3 certainly not in the business of taking radioactive
4 waste. We do everything we can to restrict and control
5 it, in fact, we're not allowed to take radioactive
6 waste. We're not interested in being in the radioactive
7 business, we don't want to accept radioactive waste, end
8 of story.

9 With that regard, we do have monitoring devices
10 set up at all of our facilities in Southern California,
11 including the Bradley Landfill, including most of our
12 Northern California, certainly all of our large Northern
13 California landfills to screen for any incoming loads of
14 radioactive materials.

15 We have had a number of hits in the recent
16 years, but examples of those hits have been things like
17 this: We have a driver of a truck who's undergoing
18 chemotherapy or radioactive iodine, and the monitors
19 detect that.

20 A couple years ago we had some soiled linen from
21 a hospital that was being disposed of and it was soiled
22 with material that was radioactive because of the patient
23 care at that facility.

24 So these are the kinds of, this is the kind of
25 detection level that we are able to achieve with our

1 monitors, although we recognize there isn't any set
2 standards. We basically try to set those standards to
3 detect any level that would be coming in.

4 With respect to the Santa Susana facility, I
5 only became familiar with the controversy surrounding
6 this facility really last December.

7 I understand earlier in the 1990s there was some
8 material disposed of at our Kettleman Hills facility from
9 the Santa Susana operation in Simi Valley. To my
10 knowledge, that was all represented to us as being
11 non-radioactive and released for unrestricted use at our
12 Kettleman Hills facility, and that was only during the
13 early nineties and not after.

14 With respect to the Bradley Landfill, I cannot
15 be more specific to say that we may have taken some
16 material from Santa Susana, but again I'm looking into
17 that, and I'll try to get you some more information
18 specifically.

19 BOARD MEMBER ROBERTI: But it is not your
20 policy?

21 MR. WHITE: It's not our policy. And it was only
22 taken under the representation from a generator that it
23 was not radioactive and had been released for
24 unrestricted use. We're going to go back and review that
25 and doublecheck that. But we certainly did not knowingly

1 accept any material that was believed to be radioactive.

2 And I think to further demonstrate our
3 commitment, this very last December some material was
4 considered for disposal at the class one facilities,
5 including our Kettleman Hills from Santa Susana, and it
6 was declared by both the Department of Toxics and the
7 Department of Health Services to be suitable for class
8 one disposal, yet we heard that there were concerns from
9 community groups, there was concerns from Senator Kuehl,
10 Senator Boxer; we declined to accept that waste even
11 though the two agencies had said it was safe for disposal
12 because we were concerned.

13 BOARD MEMBER ROBERTI: Where did that waste come
14 from?

15 MR. WHITE: From the Santa Susana facility. So
16 we're not interested, if there's any question we try to
17 restrict it to not accept the material.

18 We do have monitors devices, we do have
19 pre-waste screening procedures. And if we know that it's
20 radioactive or have concerns about it, we simply are not
21 going to be in the business of taking it at our
22 facilities.

23 I am trying to get some more information about
24 specific loads that may have been disposed of at Bradley
25 from the Santa Susana. I will forward that to the Board

1 as soon as I'm able to get some more specific
2 information.

3 We would be very interested in working with the
4 regulatory agencies to come up with some clear standards
5 for uniformed screening of waste if that's deemed by this
6 Board or other agencies to be appropriate. And I'd be
7 happy, as I say, to work with you as that effort
8 continues.

9 Thank you.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
11 White.

12 Mr. Hirsch.

13 MR. HIRSCH: If I could just make a brief
14 additional response?

15 I appreciate what we just heard, and that is
16 quite true, that when the radioactive waste soil was
17 going to be shipped from Santa Susana it was going to go
18 to Kettleman, and the owners of Kettleman declined to
19 take it because of the radioactive content, and it only
20 went at the last moment to Buttonwillow.

21 It is true that there is radioactive monitoring
22 at these sites. But, as indicated, those monitors can't
23 detect the levels the DHS are permitted to be released.
24 They're set at several times background which would mean
25 a few hundred milligram above background, and the level

1 that DHS says its policies would permit to facilities
2 would be in the range of 25, so the detectors can't pick
3 it up, even if it weren't buried in the center of the
4 truckload.

5 But I wonder if there's some solution here.
6 When I met with DHS a couple of weeks ago they told us
7 that this is not a new policy and that this has occurred
8 multiple times in the past.

9 Before you they tell it's happened only three
10 times, and only once that they're aware of to a municipal
11 landfill.

12 If that's the case, I would just suggest asking
13 DHS right now to join this Board in banning, urging a ban
14 in radioactive material coming to a landfill. If there's
15 only one instance, what do they have to lose?

16 What they told us a few weeks ago is that this
17 happened multiple times, so maybe they have something to
18 lose, but that's what they just told you. If what they
19 told us a few weeks ago, that this is not a new policy,
20 is correct, then at any rate it seems to me that you all
21 can join together in going to the Governor's office and
22 saying we want the municipal landfills of this state to
23 be barred from receiving radioactive waste. To give you
24 the authority to regulate, to make sure that happens, and
25 make sure that the statute or the state's policies are

1 clear.

2 The letter that they sent to Senator Boxer and
3 Senator Kuehl saying that they have the power to be able
4 to send it to any of your facilities. I have a letter
5 here from DHS, in fact to the people owning the Santa
6 Susana facility, saying we want you to continue to
7 provide us notice of any disposal waste generated from
8 the cleanup of these contaminated buildings into
9 California landfills if there's radioactivity in the
10 waste.

11 So the reality is that they know this is going
12 on and they have been in on that loop. But if what they
13 tell you today is the case, only one instance, join
14 today, right. And I would suggest asking them, will they
15 join you today in asking the Governor's office to concur
16 in banning radioactive waste from the landfills. Support
17 the Kuehl bill, support a gubernatorial policy, reverse
18 what is stated in those letters, because the letter that
19 that agency issued says that they can ship it to any one
20 of your facilities.

21 So if they're really telling you it's only
22 happened once, can we just ask would they join you in
23 protecting your facilities? I mean would that be
24 acceptable, Madam Chair?

25 BOARD CHAIR MOULTON-PATTERSON: Well I

1 certainly, I just want to respond to you personally as a
2 cancer survivor and as someone who has known Senator Sher
3 and Senator Boxer for many years and has great respect
4 for them, I take this very, very seriously.

5 And I don't, I know Senator Roberti is the one
6 who brought it to our attention and so he might have
7 plans on where he wants to take it, but I certainly am
8 very, very concerned, and I imagine my other colleagues
9 are too.

10 Senator Roberti, I'm going to turn it back to
11 you at this time.

12 BOARD MEMBER ROBERTI: Well I tend to think we
13 should try to convene a Board hearing. We can't
14 commandeer our sister agencies to do anything, but we
15 have a meeting with the Department of Health Care
16 Services as well as DTSS, and that we'd try to find out,
17 and maybe after a couple a couple of weeks of data
18 gathering, if this is happening.

19 But it certainly appears based on the article,
20 and the not evasive answer, because I think people are
21 being honest when they say they don't know, but on the
22 lack of information answers, and the information we have
23 is something that has been deposited at Bradley Landfill.

24 What, and I think maybe the answer is the
25 differential, the difference of opinion as to what's

1 dangerous or not dangerous. So that's why maybe we don't
2 have the data.

3 So I certainly hope that we can do that. And I
4 would ask you as the chair, Madam Chair, maybe with the
5 six co-signing of the other members that choose to do so,
6 that we write a letter to the Governor indicating that we
7 feel that radioactive, there's a possibility that
8 radioactive waste has been deposited at municipal
9 landfills; we are concerned about an advisory from the
10 Department of Health Services which seemed to make this
11 permissible; and let the Governor deal with it.

12 But I don't think he probably, he may not even
13 know about it.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you.

15 BOARD MEMBER ROBERTI: So I would certainly
16 advise that. And I'm not trying to put, and I think the
17 Department of Health Services should be absolutely fully
18 entitled to make a response, which I'm sure they will do,
19 and that the three agencies should get together and try
20 to get the data, and then we move from there.

21 Right now I think we need to know what's
22 happening, but I have a hunch something did get put into
23 the Bradley Landfill, and the difference is that no
24 records were kept because for some it was an under the
25 radar, so to speak. But I don't know.

1 Any amount of radioactivity I don't feel is
2 under the radar. And I know people tell you that, well
3 if you fly in a plane you get so many jolts. I mean
4 that's a choice you make, you don't make the choice when
5 it goes to the landfill.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you. So I
7 think we need some joint meetings. I'd be happy to write
8 a letter and hopefully have my Board members sign it.

9 And I know others might want to speak. Mr.
10 Eaton, and then I know I our court reporter needs a break
11 very badly, but go ahead, Mr. Eaton, and then we can come
12 back.

13 BOARD MEMBER EATON: Clarification. Is it DHS
14 who issued the letter with regard to our landfills, or
15 DTSC? I wasn't clear because -- I just don't know, just
16 for a point of clarification.

17 MR. HIRSCH: It's a joint letter signed by both
18 agencies.

19 BOARD MEMBER EATON: Thank you.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you for
21 bringing that up. Can we take a break right now, and if
22 we need to we'll come back.

23 Thank you. And I just want to thank all of our
24 speakers for being here and for bringing us this
25 information.

1 (Thereupon there was a brief recess.)

2 BOARD CHAIR MOULTON-PATTERSON: I'd like to call
3 the meeting back to order.

4 Mr. Eaton, ex-partes?

5 BOARD MEMBER EATON: Yes, I said hello to Mark
6 Aprea as well as Deborah Barne from Cal EPA.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
8 Medina.

9 BOARD MEMBER MEDINA: None to report.

10 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Yeah, brief conversation
12 with Paul Ryan and also with Dan Hirsch.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you, and I
14 have none.

15 We're on item number 30.

16 MS. NAUMAN: Item number 30 is the semiannual
17 update and publication of the inventory of solid waste
18 facilities violating state minimum standards, and
19 discussion of inventory public workshops.

20 Mark De Bie will make the presentation.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you,
22 Julie.

23 MR. DE BIE: Madam Chair, Board members, this
24 item has two objectives. One is, this is the method that
25 the Board uses to publish the inventory, we do this twice

1 a year, by bringing an item forward to the Board. And
2 then after the Board meeting the updated inventory is
3 posted on the Board's Web page.

4 The second objective is to review the results of
5 the workshops that the Board directed staff to conduct
6 after its November Board meeting relative to the
7 inventory process.

8 And so I'll start off with talking about the
9 current list for publication, and then talking about the
10 workshop results.

11 The current list has fourteen sites, and
12 actually one of these sites, the Arvin site is, has now
13 been deemed to be in compliance with all state minimum
14 standards; so without any objection, the list that will
15 be posted on the Web page will not include Arvin since
16 between the time that the item was written and today
17 Arvin has come into compliance.

18 Of the thirteen remaining sites, nine of them
19 are, continue to be listed or are listed on the inventory
20 because of gas issues. And the remaining are for various
21 other state minimum standards.

22 Of the sites, of the nine sites with gas issues,
23 two of them have completed installation of gas
24 remediation systems and are now into a monitoring phase
25 to determine whether or not those systems are going to

1 adequately control the gas situation.

2 One other site is currently assessing plans to
3 implement a new gas system or an expansion of their gas
4 system utilizing some of the funds from the Board's loan
5 program that they were just granted.

6 I want to indicate that none of the sites
7 currently on the list for gas have any plans to mitigate
8 their gas issues through land acquisition, all of them
9 are addressing their gas situation through implementing a
10 gas system.

11 Does the Board have any questions about those
12 sites --

13 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
14 De Bie.

15 MR. DE BIE: -- on the inventory?

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

17 BOARD MEMBER PAPARIAN: There's, going back on
18 the issue of compliance orders on the sites, there are
19 some sites without compliance orders current, is that
20 right?

21 MR. DE BIE: That's correct. The most recent
22 information I have is that we're still waiting to see a
23 compliance schedule for the Brand Park facility that is
24 newly listed on the inventory, the LEA is in
25 communication with the operator. The LEA has requested a

1 proposed schedule for compliance and is waiting for a
2 response from the operator before developing the final
3 compliance schedule. So there's negotiations going on
4 relative to the Brand Park.

5 The Red Bluff situation, the compliance schedule
6 is being redrafted to address steps being taken to expand
7 the gas system. Now that they have the funding they are,
8 you know, expanding the way that, or they're expanding
9 the plan to address the situation than what had
10 previously been proposed.

11 And again, the John Smith and Teapot Dome sites
12 are the two that don't have current orders or compliance
13 schedules, but they are again in a monitoring mode,
14 waiting to see if the systems that were put in place in
15 compliance with the previous orders are going to be
16 effective.

17 So those are the ones that I could say right now
18 do not have any compliance schedule or enforcement order
19 in place at this time.

20 BOARD MEMBER PAPARIAN: All right, then. Just
21 following up on that then, I notice that back in October
22 we discussed this, and I believe Chief Counsel Tobias
23 sent a letter to LEAs clarifying the requirements for
24 written enforcement orders, written compliance orders
25 rather.

1 What I'm wondering is whether we ought to move
2 forward at some point to -- excuse me. They have this
3 requirement in regulation as opposed to policy.

4 MR. DE BIE: That's a wonderful segue way to the
5 second objective of this item which is to discuss some of
6 the outcomes of the workshops, one of which is some
7 emphasis on the fact that the Board should go forward
8 with regulations, and those regulations should provide
9 greater clarity on the compliance schedule that's
10 included in the statute.

11 So with direction from the Board, I can go in
12 and talk about those workshop results and the other
13 issues.

14 BOARD CHAIR MOULTON-PATTERSON: Please do.

15 MR. DE BIE: Okay. Back in November Board staff
16 brought forward an item to the Board that talked about
17 the compliance schedule issue; and within that item also
18 discussed the inventory; the fact that it's been around
19 for a number of years; and some questions on whether or
20 not the inventory is effective as it's currently being
21 implemented.

22 And staff recommended that there be a wholesale
23 assessment of the inventory process to determine whether
24 or not it's still needed, and what form it should take
25 prior to opening or pursuing regulations.

1 The Board concurred in that recommendation and
2 directed staff to conduct three workshops, north, south
3 and east. And so Board staff did conduct those.

4 And the results of that are included in your
5 item, but I'll just touch on the main points.

6 The majority of the workshop participants agreed
7 that the inventory should continue, that it should not be
8 done away with; but effort should be made to make the
9 inventory more visible, for lack of another word.

10 Currently we bring an item twice a year to the
11 Board to publish it, and then we put that list on the Web
12 page, and that's all that's being done with the
13 inventory.

14 There were several ideas of how it could be more
15 visible, direct mailing to decision-making bodies within
16 the jurisdiction of facilities on the list was one idea;
17 having the list on the Web page be updated more than just
18 twice a year so it's kept current so that people can see
19 sites going on and off of the inventory between the six
20 months publication period that's in the statute.

21 Workshop participants also indicated that there
22 should be some consideration relative to repercussions or
23 consequences for remaining on the list for a period of
24 time, and there were various ideas relative to that.
25 Most of them dealt with time sensitivity, if you're on

1 the list for a year it was one idea that perhaps fines
2 should be levied just because you're on the list for more
3 than a year.

4 One idea was to address issues relative to your
5 entitlements through your permit, maybe a reduction in
6 tonnage, those sorts of things as a consequence of
7 remaining on the list.

8 So the general concept again was that the Board
9 should be looking at maybe thinking of some consequences
10 or repercussions of being on the inventory.

11 And then the last group was that there was good
12 consensus that regulation should go forward to finetune
13 the regulatory -- the inventory process to make it more
14 consistent statewide, and by clarifying what the process
15 is and how it should be implemented as well as better
16 defining the enforcement requirements for a site on the
17 inventory this compliance schedule issue.

18 So those were the main areas that the workshop
19 participants brought forward. And so Board staff are
20 prepared to go forward as we had suggested back in
21 November with putting the inventory into a regulatory
22 framework.

23 And so without any objections staff will
24 continue down that path.

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

1 BOARD MEMBER PAPARIAN: I don't think we need a
2 motion, I'd encourage you to do so and then come back
3 with an item.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you. Any
5 other comments? Mr. Eaton? Mr. Medina? Just let me
6 know. Okay.

7 I would like to propose that we, since the rest
8 of, if this is okay with you, Ms. Nauman, the rest, your
9 items are discussion, I think if we could at least skip
10 over them for now and go into special waste at this time
11 and perhaps come back to them, if that's not too much of
12 an inconvenience?

13 So if we could have Mr. Leary and the special
14 waste. Is Mr. Leary here? He wasn't really expecting to
15 be called up right then. It's just that these are pretty
16 big discussion items.

17 Sorry about that, Mr. Leary. If you wouldn't
18 mind, we're skipping around a little bit and we thought
19 we'd go to some of your items that might have some
20 action.

21 MR. LEARY: Okie doke. Good afternoon, Madam
22 Chair, members of the Board. Mark Leary representing the
23 Special Waste Division.

24 If you don't mind, we'd like to just go ahead
25 and start with agenda item 40, and then go back to 38 and

1 39 --

2 BOARD CHAIR MOULTON-PATTERSON: Certainly.

3 MR. LEARY: -- as we circle up staff to make
4 those presentations.

5 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you

6 MR. LEARY: Agenda item 40 will be presented by
7 Martha Gildart.

8 MS. GILDART: Agenda item 40 is consideration of
9 approval of proposed scoring criteria and evaluation
10 process for the fiscal year 2001/2002 tire product
11 commercialization grant program.

12 This is the third cycle for the
13 commercialization grant. The first cycle occurred in
14 fiscal year '98/'99 with the award of five grants
15 totalling \$400,000, and the second occurred in fiscal
16 year '99/2000, with three grants for a total of \$299,000.

17 In this cycle staff proposes to increase the
18 maximum funding for this grant from the \$100,000 that we
19 have awarded in the past, to \$250,000; and decrease the
20 required match from one hundred percent of the grant as
21 awarded to fifty percent.

22 The review criteria have also been slightly
23 revised from the earlier version that was sent out in
24 your packets and has been distributed this morning.
25 There are additional copies available in the back of the

1 room.

2 The first seven criteria are the Board's general
3 grant criteria. You've seen these, I think, many times
4 by now, they total seventy points.

5 We placed some of it, some greater emphasis on
6 item seven, evidence of a recycled content purchasing
7 policy at fifteen points.

8 Then there are three program criteria, and the
9 modification was made to criteria number eight. We
10 merely reworded that criteria to be more easily
11 understood.

12 It currently now reads,

13 "Evidence of market potential to absorb or
14 commitments to purchase the products produced
15 from the increase in number of tires
16 processed."

17 One of the goals of this grant program is to
18 fund projects that will increase the recycling of tires
19 by 250,000 or more a year, and we want them to provide
20 evidence of how that increase in tires recycled will
21 actually be absorbed by whatever market there exists for
22 the product. That one is at twenty points.

23 The other program criteria, number nine, match
24 contribution in excess of the grant award. We're
25 requiring a minimum of fifty percent of the grant award.

1 So if we gave out, let's say a \$200,000 grant, they would
2 have to provide a minimum of \$100,000. If they are above
3 that amount they would receive some extra points in this
4 review.

5 And the last criteria, number ten, product does
6 not receive funding in any CIWMB grant cycle within the
7 last three fiscal years. That's to try to promote
8 innovative technologies, it's five points. It doesn't
9 exclude anyone who submits an application for a product
10 that has had a grant award, they just do not qualify for
11 those five points.

12 If there are any questions I'd be happy to
13 answer them now.

14 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

15 BOARD MEMBER MEDINA: Just one comment that's in
16 regard to the eligible applicants where you state that,
17 and you have it under environmental justice as well, it
18 says that it must, further applications receive ten
19 program points if a project demonstrates economic
20 hardship as measured by being located in an enterprise
21 zone. And I would not make enterprise zone a requirement
22 because, for example, in the City of San Francisco, the
23 mission district which has a school located in the low
24 income neighborhood, that particular community in the
25 past voted against being designated a redevelopment zone,

1 a model city zone, and an enterprise zone, but there is a
2 school located within that area.

3 I would just --

4 MS. GILDART: You moved ahead, I think.

5 BOARD MEMBER MEDINA: Yeah, I'm on item 38.

6 MS. GILDART: You're on item 38 and we weren't
7 quite prepared for starting on 38 so we jumped to the
8 40.

9 The criteria are very similar, we go through all
10 the same general criteria, but in this case there isn't
11 an economic issue.

12 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

13 BOARD MEMBER EATON: Yes. I just have a
14 question with regard to the exclusion for products that
15 have received funding in the last three years.

16 I know that we've done some things in the past
17 where we've restricted the funding, but three years seems
18 to be a very long and harsh time to go back in time. I
19 can see someone in the last year, but three years may or
20 may not be, you know, based upon new technology that is
21 involved, why the three? That's a very harsh, I think,
22 timeframe. We've always limited it to at least the last
23 funding cycle or, you know, the last year.

24 MS. GILDART: We could certainly change it,
25 there just was no grant award made in the last fiscal

1 year. As you recall, the budget for this current year
2 was very limited, so there was no grant award made this
3 year. So three years goes back to the first
4 commercialization grant cycle. We can change that.

5 BOARD MEMBER EATON: I think if we just get it
6 to the previous cycle then, so it doesn't exclude anyone.
7 Based upon that fact that gives you more, that's what I
8 would just recommend in terms of changing the criteria
9 just to make it more consistent with all our other
10 programs.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
12 Eaton.

13 Okay. Any other questions or comments?

14 Mr. Paparian.

15 BOARD MEMBER PAPARIAN: Madam Chair, I'll move
16 Resolution 2001-94, approval of proposed scoring criteria
17 and evaluation process for FY 2001/2002 tire product
18 commercialization grant program.

19 I believe this would be with the modifications
20 that staff read into the record just a couple of minutes
21 ago.

22 BOARD MEMBER EATON: Second.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you. We
24 have a motion by Mr. Paparian, seconded by Mr. Eaton and
25 Mr. Medina, I believe, but we'll put Mr. Eaton down this

1 time, to approve resolution 2001-94.
2 Please call the roll.
3 BOARD SECRETARY VILLA: Eaton.
4 BOARD MEMBER EATON: Aye.
5 BOARD SECRETARY VILLA: Medina.
6 BOARD MEMBER MEDINA: Aye.
7 BOARD SECRETARY VILLA: Paparian.
8 BOARD MEMBER PAPARIAN: Aye.
9 BOARD SECRETARY VILLA: Roberti.
10 (No response.)
11 BOARD SECRETARY VILLA: Moulton-Patterson.
12 BOARD CHAIR MOULTON-PATTERSON: Aye. Now where
13 did you wish to go next?
14 MR. LEARY: We'll go back to the front of the
15 agenda, if you don't mind, Madam Chair, and go to agenda
16 item 38 which will be presented by Lin Lindert.
17 MS. LINDERT: Good afternoon, I'm Lin Lindert,
18 I'm supervisor over the Waste Tire Diversion Program, and
19 also I'd like to say we include playgrounds in that
20 although the playground programs that I'm about to
21 describe to you are not necessarily tire based. Tire
22 products may be used in them, but they have included all
23 the waste products in them. So it's kind of a special
24 program. We like it.
25 Item 38 is consideration of approval to formally

1 notice the proposed regulations for the playground safety
2 and recycling act grant program. This was passed, this
3 was AB 1055. We have only had one grant cycle where the
4 money came from Proposition 98 funds, and it had to be
5 exclusively for public schools because it was money
6 designated only for educational entities.

7 We've only had one cycle and there's no, as far
8 as we know, future funding; however, these grants go that
9 have been given, there were ninety grants funded, they go
10 to April 30th, 2002, so we have to take the regulations
11 permanent.

12 These regulations were, we were given, the Board
13 was given approval to, in the legislation to do emergency
14 regulations, and we did them really quickly because we
15 had to get this money out the door before June, 2000.

16 The Board action in the past was that they
17 approved the fund distribution, the applicant and project
18 eligibility and scoring criteria in February 23, 2000,
19 and this became the basis for our regulation writing.

20 And they also approved the value, the evaluation
21 process on March 22, 2000, and they adopted, the Board
22 members adopted the emergency regulations on April 18 and
23 19, 2000.

24 We don't anticipate that any further money will
25 be given to this program. There's nothing in the

1 Governor's budget for this next year, and it appears to
2 be a one time grant, which is too bad.

3 But anyway, what we are asking is for you to
4 give us the approval to notice these regulations for the
5 45 day comment period.

6 Do I have any questions?

7 BOARD CHAIR MOULTON-PATTERSON: Thank you. Yes,
8 Mr. Medina.

9 BOARD MEMBER MEDINA: Madam Chair, again this is
10 the appropriate time. In regard to the wording referring
11 to enterprise zones, I would just recommend that where it
12 says, "Applications receive ten program points if the
13 project demonstrates economic hardship." I would just
14 stop at economic hardship and omit enterprise zones.
15 Because there are a number of communities that have
16 economic hardship and they do not have an enterprise zone
17 located within those.

18 MS. LINDERT: For the schools we used the
19 percentage 85 or above if the students received the lunch
20 program, the subsidized lunch program. And we have very
21 good data from the Department of Education on that. So
22 it was for the park districts were the ones that had to
23 be in the enterprise zones.

24 BOARD MEMBER PAPARIAN: I think the -- Madam
25 Chair.

1 BOARD CHAIR MOULTON-PATTERSON: Certainly, Mr.
2 Paparian.

3 BOARD MEMBER PAPARIAN: I think the point for
4 the regulations is not to use enterprise zones as the
5 defining criteria for economic hardship, but to come up
6 with something, as Mr. Medina says, or if you can come up
7 with something that's equally appropriate to try to go
8 with that before you come back to us with this.

9 MS. LINDERT: So did you want us to return with
10 this agenda item in June then or can we just go ahead
11 with the --

12 BOARD MEMBER PAPARIAN: I think if we have the
13 understanding that enterprise zones is not the way to
14 define economic hardship in a residential area or --

15 MS. LINDERT: What about the 85 percent or above
16 for the school lunch program, if schools were to apply?
17 See, we probably won't have this grant program again, but
18 if we did would that be appropriate for schools?

19 BOARD MEMBER PAPARIAN: You might want to put
20 something like that or other demonstration of economic
21 hardship so that you have some flexibility there, because
22 I think there may be situations where, you know --

23 MS. GILDART: Excuse me. The regulations have
24 both, the enterprise zone and the 85 percent school
25 lunch. We could drop the enterprise zone and still move

1 forward with these regulations.

2 BOARD MEMBER MEDINA: I think the 85 percent
3 would work, just drop the enterprise zone.

4 MS. LINDERT: And keep the 85 percent or above
5 for the schools, just drop the other for other entities
6 other than schools, all right, and have them demonstrate
7 it.

8 BOARD CHAIR MOULTON-PATTERSON: Okay. I just
9 have a question. Is it 85 percent that get free or
10 reduced lunch?

11 MS. GILDART: Yes.

12 MS. LINDERT: Yes. Yes.

13 BOARD CHAIR MOULTON-PATTERSON: So with all that
14 we're directing you to formally notice the proposed
15 regulations for the playground safety and recycling grant
16 program, and thank you for all your work in this program.

17 MS. LINDERT: Hopefully we'll get some more
18 funding.

19 BOARD CHAIR MOULTON-PATTERSON: It's a good one.

20 MR. LEARY: Do we need a motion?

21 MS. LINDERT: We don't have to on that because
22 there's no resolution, right?

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.

24 MR. LEARY: Agenda item 39 will be presented
25 by --

1 MS. LINDERT: I think I just need to clarify,
2 since we do have new Board members, that in my section we
3 do have three playground programs; one is the school
4 safety and recyclability of playground grant program.

5 The second one is the park accessibility and
6 recycling grant program, which has a slight different
7 emphasis with the emphasis on creating accessibility to
8 playgrounds while using recycled content materials.

9 And the third program is our playground surfaces
10 grant program which is our tires grant program, which we
11 will have coming for you before the Board probably in
12 July, the criteria for that one.

13 BOARD MEMBER MEDINA: And it's for that third
14 one that I'm trying to get for the school in San
15 Francisco.

16 MS. LINDERT: Well that's the one that is for
17 new playgrounds as well as refurbishing older
18 playgrounds. The other two were specific in legislation
19 that they were just for refurbishing older playgrounds,
20 and I believe the Moscone Center, because we did research
21 on it, was for, or the Moscone whatever it is --
22 playground, school?

23 BOARD MEMBER MEDINA: George Moscone.

24 MS. LINDERT: Right. They wanted a new
25 playground, so they didn't qualify. Sorry. So anyway --

1 BOARD CHAIR MOULTON-PATTERSON: Before you go
2 ahead, just while we have Senator Roberti here I wanted
3 to kind of close up two areas. We'd left the roll open,
4 Senator Roberti, on item 28 and 40 if you'd like to
5 record a vote?

6 BOARD MEMBER ROBERTI: 20 and 40?

7 BOARD CHAIR MOULTON-PATTERSON: 28 and 40.

8 BOARD MEMBER ROBERTI: Roberti, aye.

9 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you
10 very much. Sorry for the interruption.

11 Okay, if you'll continue.

12 MS. LINDERT: All right. This one is about
13 approving the criteria and the evaluation process for the
14 Safe Neighborhoods Parks Clean Water Clean Air Coastal
15 Protection Bond Act Playground Program.

16 That was the Park Bond Act, and we call it that
17 for short, that was approved by the voters in March of
18 2000.

19 This is our second grant cycle, and we have not
20 changed anything in here from what the Board approved for
21 the first grant cycle.

22 At its August Board meeting the Board approved
23 the fund distribution, applicant and project eligibility
24 and scoring criteria for the first grant cycle. At its
25 October, 2000 Board meeting, the Board approved the

1 evaluation process for the first grant cycle. This time
2 we're doing them both together.

3 The only change in this entire program compared
4 to last time is the slight difference in the distribution
5 of grant funds between Northern California and Southern
6 California.

7 As you know we had a census taken recently, and
8 as a result the, the percentages changed a little bit,
9 Southern California gained 61 percent and, to 39 percent
10 allocated to Northern California, instead of the 60/40
11 percent split that we had the first grant cycle.

12 We anticipate getting the same amount of funds,
13 2.558 million was what the legislature appropriated for
14 the first grant cycle, and we have identified that that
15 same amount is in the Governor's budget for fiscal year
16 2001/2002.

17 And for this grant cycle we have three proposed
18 program specific review criteria. Evidence of a
19 jurisdiction recycling program; age of playground; and
20 economic hardship.

21 Again, if the playground is located within an
22 enterprise zone as determined by the, what is now called
23 the Technology, Trade and Commerce Agency, the
24 application will be eligible for ten points.

25 And the reason we have used this, just for your

1 information, is that it is the criteria that is used by
2 other grant programs, including one in the Office of
3 Criminal Justice Planning under the Governor's office for
4 that same kind of designation.

5 But I realize that you probably have some
6 changes to this one as well, so --

7 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

8 BOARD MEMBER PAPARIAN: Yeah. And I think
9 again, just for the benefit of the people who aren't
10 aware, enterprise zones were designed to deal with
11 business development, and often the enterprise zones are
12 geographically along boulevards that have a lot of
13 businesses but yet then miss the adjacent areas where the
14 need is for this type of grants.

15 So I think if we could change that criteria to
16 say something like that, that is the criteria number ten
17 on economic need, to say something like if the applicant
18 can demonstrate unusual economic hardship, and I don't
19 know if you want to leave that same 85 percent or if
20 that's appropriate.

21 MS. LINDERT: Actually this is just, this is
22 just for parks. It's restricted from the Park Bond Act,
23 it's just for parks, and park districts have very weird
24 jurisdictional areas, so we wouldn't be using that for
25 school lunch programs.

1 BOARD MEMBER PAPARIAN: Right.

2 MS. LINDERT: They're not contiguous with school
3 districts.

4 BOARD MEMBER PAPARIAN: Right.

5 MS. LINDERT: So it makes it very difficult.

6 BOARD MEMBER PAPARIAN: So maybe just a criteria
7 of unusual economic hardship?

8 MS. LINDERT: And have them justify it in the
9 grant application?

10 MS. GILDART: May I make a suggestion? That we
11 have it be a two-part criteria, that either they're in an
12 enterprise zone so that those communities, and there are
13 zones which span entire communities, and indeed entire
14 counties, could use that as a justification that would be
15 very easy for them to submit in an application, or give
16 them an alternative to say either an enterprise zone or
17 proof of economic hardship such as a federal empowerment
18 zone or other, and then put the burden of proof on the
19 applicant where they can put together the information
20 that could convince us that they need this kind of
21 assistance.

22 So for those communities who are already an
23 enterprise zone, they don't have to jump through all
24 those same hoops.

25 Would that satisfy?

1 BOARD CHAIR MOULTON-PATTERSON: Well it's my
2 understanding that enterprise zones are more oriented
3 toward business.

4 MS. LINDERT: Some of them do, are large
5 geographical areas. I realize that the Sacramento one is
6 kind of, but there is one in West Sacramento, and there
7 are 31 of them all over the state.

8 And we did have grants applications that we
9 approved last time or that will be coming before the
10 Board that did use this criteria, and with the playground
11 safety one too, and get the 25 percent match.

12 So we could do it, we could also have them list
13 how they've been designated as a poverty area. There are
14 empowerment zones, enterprise communities, champion
15 communities, native economic development guidance and
16 empowerment communities; there's a lot of different
17 designations that we could have.

18 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian,
19 what was your pleasure on that? Just economic hardship
20 or did --

21 MS. LINDERT: Just generally?

22 BOARD MEMBER PAPARIAN: Yeah, I think so, if
23 they could demonstrate economic hardship, and then if
24 they're in an enterprise zone they're going to know if
25 they're in one of these empowerment zones or whatever,

1 they'll use that as their justification.

2 BOARD MEMBER MEDINA: Madam Chair, I would
3 concur.

4 BOARD CHAIR MOULTON-PATTERSON: Which one of you
5 would like to make the motion?

6 BOARD MEMBER PAPARIAN: I'll go ahead and move
7 Resolution 2001-95, approval of proposed distribution
8 of -- am I on the right one?

9 BOARD CHAIR MOULTON-PATTERSON: Yeah.

10 MS. LINDERT: Yeah.

11 BOARD MEMBER PAPARIAN: Approval of proposed
12 distribution of funds applicant and project eligibility
13 scoring Criteria and evaluation process for FY 2001/2002
14 park playground accessibility and recycling grants
15 program, Villaraigosa-Kelley Act, with the changes that
16 we just discussed.

17 BOARD MEMBER MEDINA: And I would second that,
18 Madam Chair.

19 LEGAL COUNSEL TOBIAS: Madam Chair, I think we
20 have a comment that we'd like to make just before you
21 vote if you'd entertain it?

22 BOARD CHAIR MOULTON-PATTERSON: Okay.

23 LEGAL COUNSEL TOBIAS: Sorry.

24 MS. GILDART: We need some guidance on what
25 they'd be submitting to provide proof of evidence that

1 they have an economic hardship. If being in an
2 enterprise zone isn't sufficient, we would be at a bit of
3 a loss to understand what would be sufficient and how to
4 rank and judge the different applicants.

5 BOARD CHAIR MOULTON-PATTERSON: I think the
6 Board's question here, and maybe I'm mistaken on this,
7 you know, I think a community could make a description
8 that could prove it to you, but I don't think enterprise
9 zones, maybe they do it differently in Northern
10 California; but in Southern California, one example in
11 Santa Ana, it's all of Bristol Avenue, all the businesses
12 around there. So I think that's, at least my concern
13 that, you know, we just put in enterprise zone.

14 Is that your concern, Mr. Paparian, that it
15 doesn't fit?

16 BOARD MEMBER PAPARIAN: Yeah, that's --

17 MR. LEARY: And we share that concern. That's
18 the question though now before us is what if all the
19 applicants say we are in a situation of extreme financial
20 hardship, upon which basis will we then have to give them
21 that five points or not? That's the struggle, as the
22 applications come in that's the struggle we're going to
23 be faced with if they decide that, absent criteria we
24 don't really have, and maybe what we need to do this, I
25 am reluctant to suggest this, but we put this over and

1 try to give this some more thought.

2 MS. LINDERT: We have this laundry list of other
3 types of zones. There is, for example, the local area
4 military base recovery area, LAMBRA, which includes the
5 areas around military bases. We could say adjacent to or
6 near. We have done a lot of research into these
7 different zone areas.

8 BOARD MEMBER PAPARIAN: If more clarification is
9 needed maybe we do need to put it over for a month.
10 Because, again, I live in an area that could be asserted
11 as adjacent to an enterprise zone, and I wouldn't want my
12 neighborhood to qualify for this, I think we can afford
13 these things more than other neighborhoods can.

14 So I'm not sure adjacent to quite gets at it
15 either.

16 BOARD MEMBER MEDINA: And there were low income
17 communities, again, that decided not to become part of
18 what are model cities programs, redevelopment zones,
19 empowerment zones, because they did not wish to give up
20 any local control over development in their particular
21 area. And they were indeed low income poverty levels by
22 federal standards.

23 MS. LINDERT: What if we use below the average
24 poverty level of the State of California as described by
25 the Department of Finance? Would that be clear?

1 BOARD CHAIR MOULTON-PATTERSON: I can see where
2 you're coming from. You need some criteria, and that
3 would work for me, and then I think we could go ahead and
4 approve it today.

5 MS. LINDERT: Right, because we could get a
6 number off of the Web from the Department of Finance on
7 that.

8 BOARD CHAIR MOULTON-PATTERSON: I'd be more
9 comfortable with that.

10 BOARD MEMBER PAPARIAN: That's --

11 BOARD CHAIR MOULTON-PATTERSON: Is that okay
12 with you?

13 BOARD MEMBER PAPARIAN: That's fine with me.
14 We did have the motion and the second, didn't
15 we?

16 MS. GILDART: Yes.

17 LEGAL COUNSEL TOBIAS: Madam Chair, I'm really
18 sorry, but that may be so restrictive. Do you want to do
19 something that that's the priority? Because I think what
20 may happen is you may not get enough within that, and
21 then we're onto the next problem.

22 So what you may want, maybe what we can do is go
23 ahead with that as the priority at this time, and then
24 come back at the next meeting if we think we either need
25 to come up with the next area down or a different

1 definition.

2 I'm just worried that that's not, that that's
3 too restrictive.

4 Okay. Never mind.

5 BOARD CHAIR MOULTON-PATTERSON: I mean I see
6 your point and I think the Board sees it, and I think it
7 would be best to just continue it and come back with some
8 good language. Because, you know, we can't just, you
9 know, decide right now, and we don't want to limit you.

10 I understand where staff's coming from where,
11 and where legal is coming from, but is that okay with
12 you?

13 LEGAL COUNSEL TOBIAS: Well Ms. Bruce just
14 pointed out to me that it is just five points, so maybe
15 that, that I think takes care of my problem.

16 MR. LEARY: Madam Chair, I share your concern.
17 This is a very high profile grant program for the Board,
18 it's very heavily subscribed, we don't want to goof it
19 up. We have a special meeting potentially proposed for
20 May 14th, we could come back as soon as that to the Board
21 with some further definition to the criteria, and
22 hopefully reach some resolution, the May 14th being the
23 workshop and the special meeting.

24 BOARD CHAIR MOULTON-PATTERSON: I think we have
25 concurrence of the Board on that. Thank you, we'd rather

1 do it right.

2 And thank you, staff, we really appreciate your
3 patience with us. Okay. Next Mr. Leary.

4 MR. LEARY: Agenda item 41 has been pulled.

5 Agenda item 42 is on consent.

6 So that moves us to agenda item 43. This is
7 consideration of the approval of the contractor for the
8 E-waste baseline generation and infrastructure contract
9 concept, number 51. It will be presented by Shirley
10 Willd-Wagner.

11 MS. WILLD-WAGNER: Good afternoon, Madam Chair
12 and Board members. I'm Shirley Willd-Wagner of the
13 Special Waste Division.

14 And item 43 as marked is presented for your
15 consideration of the approval of the contractor to
16 perform the electronic waste baseline generation and
17 infrastructure study.

18 The contract concept was approved at the
19 February, 2001 Board meeting for \$60,000, and the scope
20 of work was approved as part of the consent agenda for
21 this meeting.

22 So we're asking the Board to approve a contract
23 with MGT of America for \$60,000 to complete this study.

24 MGT is a contractor designated through the
25 Master Services Agreement with the Department of General

1 Services, so these do not need to be individually
2 competitively bid, all Master Service Agreements have
3 been competitively bid.

4 As you know, the whole E-waste issue has come to
5 the forefront lately with some urgency as the Department
6 of Toxics Substances Control recently issued a statement
7 clarifying their position that computer monitors and
8 televisions and any CRT containing devices are and must
9 be managed as hazardous waste.

10 The CRT is the cathode ray tube that's contained
11 inside of the computer monitor and television.

12 Currently DTSC is working with our staff on
13 looking at a potentially new regulatory structure for
14 CRT's, and the U.E. EPA is also looking at this.

15 But currently they are hazardous waste, and at
16 the last report DTSC is expediting emergency regulations
17 to address the issue.

18 So the baseline generation and infrastructure
19 report that we're proposing would do the following:

20 Establish an estimate of the E-waste generation
21 by private citizens to try to determine an estimate of
22 how much electronic waste is currently being stored in
23 all of our garages and attics.

24 Also, to provide a projection of the types and
25 quantity of E-waste that will be entering, or E-products,

1 I should say, that will be entering the marketplace over
2 the next five years.

3 And identify our existing E-waste recycling
4 infrastructure, and to determine the flow-through
5 capability of this existing structure. And also try to
6 provide some cost estimates for comparison purposes. And
7 then determine the gap between generation and
8 infrastructure regarding infrastructure.

9 So the study is really needed to help the Board
10 and other state agencies and local governments determine
11 and make decisions on how best to deal with this rapidly
12 growing electronic waste stream.

13 We recommend the approval of Resolution 2001-124
14 to approve MGT of America as the contractor to perform
15 the electronic waste baseline generation and
16 infrastructure study.

17 Are there any questions?

18 BOARD MEMBER EATON: I have just one.

19 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

20 BOARD MEMBER EATON: One really quick one. And
21 if it could apply with Master Services Agreements and
22 whatever, I don't have a problem with the item, but could
23 we at least have some information with regard to who this
24 corporation or the corporations on these types of
25 contracts are, their background, their expertise in these

1 areas? Are they California corporations? Are they out
2 of state corporation's? Are they, you know, what is the
3 makeup?

4 We used to be able to get some sort of, and I
5 hate to use the word curriculum vitae, but we used to
6 have some background as to who the corporation is. I
7 mean, you know, just so we can, just for expertise. I
8 mean like, you know, we get the tire guys, we know that
9 that's what they do.

10 But it's not really related to this item, but I
11 mean this particular corporation, but if we could just in
12 general, I think it would be helpful for us to find out,
13 you know, how are they based? Where are they based?
14 What's their experience been?

15 MS. WILLD-WAGNER: We have a copy of their
16 profile for each Board member if you would like?

17 BOARD MEMBER EATON: Sure. I'd like to see it.
18 I'm not really worried about this item, but if in the
19 future we could get at least some background form, it
20 would be helpful.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you for
22 doing that in the future.

23 BOARD MEMBER MEDINA: Madam Chair, I agree
24 wholeheartedly with Mr. Eaton, and I'd like to move this
25 item.

1 I'd like to move item 2001-124.

2 BOARD MEMBER PAPARIAN: Second.

3 BOARD MEMBER MEDINA: That the Board approves
4 MGT of America as the contractor for the electronic waste
5 baseline generation and infrastructure generation
6 contract, and direct 60,000 from the consulting and
7 professional services money so that the Integrated Waste
8 Management Account can fund this contract.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you. We
10 have a motion by Mr. Medina, seconded by Mr. Paparian.

11 Please call the roll.

12 BOARD SECRETARY VILLA: Eaton.

13 BOARD MEMBER EATON: Aye.

14 BOARD SECRETARY VILLA: Medina.

15 BOARD MEMBER MEDINA: Aye.

16 BOARD SECRETARY VILLA: Paparian.

17 BOARD MEMBER PAPARIAN: Aye.

18 BOARD SECRETARY VILLA: Roberti.

19 BOARD MEMBER ROBERTI: Aye.

20 BOARD SECRETARY VILLA: Moulton-Patterson.

21 BOARD CHAIR MOULTON-PATTERSON: Aye. Next item,
22 Mr. Leary.

23 Thank you.

24 MR. LEARY: Agenda item 44 is consideration of
25 approval of enforcement procedures involving the waste

1 tire facilities.

2 This item will be presented by Mr. Keith
3 Cambridge of the Waste Tire Enforcement Section. He's
4 got to load a short little presentation onto the computer
5 and get it ready to roll.

6 MR. CAMBRIDGE: Good afternoon.

7 BOARD CHAIR MOULTON-PATTERSON: Good afternoon.

8 MR. CAMBRIDGE: Good afternoon, Madam Chair and
9 members of the Board. My name is Keith Cambridge of the
10 Special Waste Division.

11 Today I will be presenting the following item,
12 consideration of approval of enforcement procedures
13 involving waste tire facilities.

14 In April, 2000 the Special Waste Division
15 brought forward this item to the Board to seek approval
16 in the procedures and administrative penalties sought in
17 the enforcement of non-compliance waste tire facilities.

18 The Board requested that staff review the
19 penalty schedule to account for more variables in the
20 determination of the penalty.

21 Staff has worked with the legal office and feel
22 that the penalty schedule now reflects a more uniform and
23 in-depth approach to make this determination.

24 I would like first to give you a general
25 overview of the current waste tire enforcement program,

1 and then present our current enforcement procedures
2 pertaining to unpermitted and permitted waste tire
3 facilities.

4 And then lastly present the administrative
5 penalty schedules.

6 Let me first start by giving you the statistical
7 background for the waste tire enforcement program. In
8 the year 2000 we issued 74 enforcement orders, and
9 referred 27 administrative complaints to the legal office
10 for appropriate action.

11 Since the inception of the program, 360
12 enforcement orders have been issued, 154 administrative
13 complaints have been referred to the legal office, 33
14 criminal complaints have been referred to the local
15 District Attorney's offices, one inspection warrant has
16 been served, and one injunction for property access has
17 been performed.

18 There we go, sorry. Since 1994 we've also
19 removed 5.8 million waste tires as a direct result from
20 Board's enforcement actions, so as to say the Board has
21 not spent a dime on the removal of these tires.

22 Our enforcement tools start off as a letter of
23 violation. This is issued by the field inspector. It
24 requires both the operator and the property owner to
25 remove the tires by a set date.

1 The second level of enforcement is what we call
2 our cleanup and abatement order. It's for unpermitted
3 waste tire facilities only. It's an order that's issued
4 to both the operator and the property owner. It cites
5 the outstanding violations, and establishes a removal
6 schedule, generally not more than 180 days as a maximum
7 time period, and lists punitive actions which may result
8 if the order is not complied with.

9 As a sister to that, we have issued abatement of
10 waste tires and cease and desist orders for permitted
11 sites. These, they're very similar. Basically the only
12 difference between the two is the cease and desist order
13 allows the operator to start accepting tires once the
14 amount of tires has gone below the permitted level once
15 the compliance has been made.

16 Our third level of enforcement is administrative
17 complaint. This is conducted by the Office of
18 Administrative Hearings. And the penalty requested
19 against responsible parties is what I'll be presenting to
20 you at the latter part of my presentation as far as the
21 penalty schedule.

22 The administrative complaint is referred by
23 staff to the legal office, and the legal office actually
24 issues the administrative complaint.

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

1 BOARD MEMBER PAPARIAN: Excuse me, Madam Chair.

2 There's excellent background to this item, and I think
3 we've all had a chance to review it, and I'm ready to
4 move a motion to help move this along.

5 Are you going to have any changes to the motion?

6 MR. CAMBRIDGE: That's fine with me.

7 BOARD MEMBER PAPARIAN: I'll move Resolution
8 2001-93, approval of enforcement procedures involving
9 waste tire facilities.

10 BOARD MEMBER MEDINA: Second.

11 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a
12 motion by Mr. Paparian, seconded by Mr. Medina.

13 Please call the roll.

14 BOARD SECRETARY VILLA: Eaton.

15 BOARD MEMBER EATON: Aye.

16 BOARD SECRETARY VILLA: Medina.

17 BOARD MEMBER MEDINA: Aye.

18 BOARD SECRETARY VILLA: Paparian.

19 BOARD MEMBER PAPARIAN: Aye.

20 BOARD SECRETARY VILLA: Roberti.

21 BOARD MEMBER ROBERTI: Aye.

22 BOARD SECRETARY VILLA: Moulton-Patterson.

23 BOARD CHAIR MOULTON-PATTERSON: Aye. Thank you
24 very much for your presentation.

25 MR. CAMBRIDGE: Thank you.

1 BOARD CHAIR MOULTON-PATTERSON: Mr. Leary.

2 MR. LEARY: Agenda item 45 is the consideration
3 and approval of an interagency agreement with the
4 Department of Toxic Substances Control related to the
5 Westley Tire Fire.

6 This item is prepared as a result of the Board's
7 adoption of Resolution number 2001-84 adopted March 20th
8 last month in Glendale directing us to establish a
9 contractual relationship with DTSC to transfer DTSC
10 \$558,000 allocated by the former allocation item
11 presented to the Board in December of 2000.

12 The agenda item has an attachment, a draft
13 interagency agreement as well as a scope of work that
14 defines the work that will be defined that will be
15 captured by this interagency agreement that provides the
16 total funding of \$558,000.

17 We were greatly assisted by the Office of the
18 Chief Counsel in preparing the interagency agreement, and
19 appreciate that assistance in drafting the agreement and
20 drafting the scope of work.

21 The work identified here is entirely contractual
22 work, work conducted by contractors at their, at the
23 request of the Department of Toxics Substances Control.

24 We've identified a subset of the total
25 contractual work that equals the \$558,000 allocated by

1 the Board in December.

2 That concludes my presentation. Any questions?

3 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

4 Leary. Questions?

5 Mr. Paparian.

6 BOARD MEMBER PAPARIAN: I'll move Resolution

7 2000-126 Revised. Is that the correct number, counsel?

8 BOARD CHAIR MOULTON-PATTERSON: 2001-126.

9 BOARD MEMBER PAPARIAN: My binder says 2001-126
10 Revised, is that right?

11 BOARD CHAIR MOULTON-PATTERSON: I just meant
12 2001-126 revised, it's 2001 for the year.

13 BOARD MEMBER PAPARIAN: I understand, but I
14 think we're carrying over a resolution from 2000, that's
15 why I'm -- I am, mine says 2001.

16 BOARD MEMBER PAPARIAN: Does it?

17 BOARD CHAIR MOULTON-PATTERSON: Sorry about
18 that.

19 BOARD MEMBER PAPARIAN: Maybe --

20 LEGAL COUNSEL TOBIAS: 2000-126.

21 BOARD CHAIR MOULTON-PATTERSON: I apologize, Mr.
22 Paparian.

23 BOARD MEMBER PAPARIAN: I'll move 2000-126
24 Revised, approval of an agreement with the Department of
25 Toxics Substances Control relating to the Wesley tire

1 fire.

2 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a
3 motion by Mr. Paparian.

4 BOARD MEMBER ROBERTI: Second.

5 BOARD CHAIR MOULTON-PATTERSON: Seconded by
6 Senator Roberti.

7 Please call the roll.

8 BOARD SECRETARY VILLA: Eaton.

9 BOARD MEMBER EATON: No.

10 BOARD SECRETARY VILLA: Medina.

11 BOARD MEMBER MEDINA: Aye.

12 BOARD SECRETARY VILLA: Paparian.

13 BOARD MEMBER PAPARIAN: Aye.

14 BOARD SECRETARY VILLA: Roberti.

15 BOARD MEMBER ROBERTI: Aye.

16 BOARD SECRETARY VILLA: Moulton-Patterson.

17 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.

18 Did we finish your entire section, Mr. Leary?

19 MR. LEARY: Yes, we did, Madam Chair.

20 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
21 you.

22 Ms. Bruce, which, how do you propose -- we still
23 have a bit of time, we're picking up some speed, should
24 we go back to, or does the Board want to go back to the
25 permitting issues? Those are discussion, or go on with

1 other? Oh, we had some people that have been waiting for
2 item 46.

3 ACTING EXECUTIVE DIRECTOR BRUCE: Before we move
4 on if we could just have a resolution change number.

5 Deborah, are you saying that it's 2001-126 or is
6 it 2001-something else?

7 MS. MCKEE: 2001-126.

8 LEGAL COUNSEL TOBIAS: Okay.

9 MS. MCKEE: And it will be revised because of
10 that.

11 LEGAL COUNSEL TOBIAS: I think we could just let
12 the record reflect that it should be 2001-126, you don't
13 have to revote on it unless the Board feels that that's
14 not sufficient, but I think it's fine.

15 BOARD MEMBER PAPARIAN: That's fine.

16 LEGAL COUNSEL TOBIAS: Okay. Thank you.

17 INTERIM EXECUTIVE DIRECTOR BRUCE: Madam Chair,
18 I was going to go, I was going to suggest that the
19 numbers you have left, if you wanted to do the discussion
20 items that you have people here, we also are prepared to
21 move forward with 46 and 47.

22 BOARD CHAIR MOULTON-PATTERSON: Okay. If that's
23 agreeable to the Board, and if we could just take 46 and
24 47 for tonight, and then we can take up these other
25 items, you'll let us know what the date that works for

1 everyone, the 14th or whatever?

2 ACTING EXECUTIVE DIRECTOR BRUCE: That's
3 correct.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. We'll go
5 to item 46 and 47. 46 I know we've had people waiting
6 all day.

7 MS. JAVA: Good afternoon, Madam Chair. My name
8 is Roni Java, I'm a Public Information Officer with the
9 Office of Public Affairs, and I'm here to present to you
10 today on item 46, which is consideration of approval on
11 fiscal year 2000/2001, sponsorship action to support
12 public education activities. This also relates to fiscal
13 year 2000/2001 contract concept number 63.

14 In the interest of brevity, as I know you have a
15 lot of business ahead of you, I won't read the whole
16 item, I'll just can discuss a few items for you.

17 The California Integrated Waste Management Board
18 has been presented with an opportunity to partner with
19 either or both of two private organizations to promote
20 public education and awareness of messages focusing on
21 waste reduction, resource and energy conservation,
22 improved management of solid waste in the state, and the
23 development of sustainable recycling markets.

24 The two potential partners requesting
25 consideration at this date are Trash Talk environmental

1 education and awareness radio programming, which is a
2 project of the Tides Center.

3 And the California Resource Recovery
4 Association, CRRA, which holds an annual education and
5 local assistance conference.

6 As you know, we have \$20,000 up for
7 consideration for this item, and the background material
8 that you've been provided lays out some various options.

9 I have invited two representatives from the
10 requesting organizations to come and make a very brief
11 presentation to you, and we are available to answer any
12 questions that you might have.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you.

14 MS. JAVA: I think, I don't think I have someone
15 here from CRRA actually.

16 BOARD CHAIR MOULTON-PATTERSON: We have John
17 Davis.

18 MS. JAVA: Oh, we do? Thank you. I haven't had
19 a chance to talk to him yet.

20 BOARD CHAIR MOULTON-PATTERSON: John, were you
21 going to speak on behalf of CRRA?

22 MR. DAVIS: Yes.

23 MS. JAVA: That would be great. Mr. John
24 Davis.

25 MR. DAVIS: Good afternoon, Madam Chair and

1 Board members. My name is John Davis, I'm the vice
2 president of the California Resource Recovery Association
3 representing the Inland Empire on that Board.

4 We are a statewide recycling organization. We
5 are the largest and oldest statewide recycling
6 organization in the country. And we're pleased to have
7 this long history of partnering with your Board in
8 presenting our annual conference.

9 Last year's conference drew over 1,000
10 participants, and we began working even prior to that
11 conference on this year's event.

12 This year's event we're pleased to say is in
13 Pasadena. We very much wanted to regain our footing in
14 Southern California and expand our activities in Southern
15 California, so we've had a, an organizing committee
16 active formally since the last day of the Sacramento
17 conference working on our Pasadena event.

18 We are prepared next week to publish our first
19 full program for that event, send it by mail. Our
20 mailing list is over 7,000 recipients. We have over 45
21 sessions at this point. We've allocated approximately
22 ten hours to activities that have been organized by CIWMB
23 staff members. In addition to that there are
24 approximately, I'd say 35 other sessions that cover a
25 range of topics.

1 There's a policy plenary section talking about
2 electronic waste. There are two immediate follow-up
3 sessions focusing on implementation and current status of
4 that issue. We have a session on compost regulations to
5 follow on with the, with the actions that you took this
6 morning.

7 We kind of pride ourselves on always being
8 current, so I think to get our schedule put forward at
9 this point we've involved our technical councils who are
10 really the leaders across the state in that activity.

11 So we're asking for your consideration. We
12 started discussions last year since you were so much
13 involved in that conference. We submitted a formal
14 request in February, we submitted a follow-up in March,
15 and we are here to answer any questions.

16 BOARD CHAIR MOULTON-PATTERSON: Okay.

17 BOARD MEMBER EATON: Madam Chair, I have a
18 question for Mr. Davis too on a recent statement. How
19 did we solicit? Normally we solicit people for these
20 programs, how did we solicit this time? Was there a
21 notice that went out?

22 MS. JAVA: No, Mr. Eaton, there was no formal
23 solicitation.

24 BOARD MEMBER EATON: There was no formal
25 solicitation. Was there a reason for it, I mean time or

1 anything like that? I mean those things can happen, I
2 was just wondering why this was so unique.

3 MS. JAVA: The reason there was no solicitation
4 is that we were planning to come back to the Board, and
5 we are still planning to do that in the month of May,
6 with a request for the Board to provide direction on how
7 the sponsorship program should be conducted now and in
8 the future. There was no formal plan to have a
9 sponsorship program this year, these two needs came to
10 the attention of the Board.

11 BOARD MEMBER EATON: Well Mr. Davis, with regard
12 to you keeping current, I have here your April and May
13 newsletter which you keep current, and I would hope that
14 if you are successful in this, that you will do a little
15 bit better job on accuracy.

16 You have a full-length article here which says,
17 "The CIWMB fines jurisdictions for violating
18 waste diversion law reiterating the state's
19 commitment to cutting California, the California
20 Integrated Waste Management Board assessed a
21 total of \$47,700 in fines."

22 We never, I not, in my term on the Board I've
23 never done that recently, and more importantly since 1990
24 you have had Board chairman Dan Pennington, our new chair
25 is Ms. Moulton-Patterson, and I was the chair before

1 that. So when you tell me you're staying current, I have
2 to be suspect when we solicit things and we don't solicit
3 things and we have this kind of information.

4 So how are you going to convince us that what
5 you're going to do in this program will be accurate?
6 Because this is not just, I mean this is not just a
7 misstatement, this is an entire article. We have not, I
8 don't think there's anyone, I know I probably, at least
9 today, have been on the Board the longest, and we've
10 never fined anyone.

11 So I'm a little bit disturbed at your
12 organization for putting this out.

13 MR. DAVIS: We recognized last July at our
14 annual members meeting that "Recycled Scene" is an avenue
15 of communication that needs vast improvement. We're in
16 the process, I believe, ready to announce at the member's
17 meeting this year that we're going to a newsletter with
18 articles prepared by the technical councils.

19 A lot of the articles in the past have come
20 forward by members, and that was encouraged to get a
21 broad perspective. A lot of us on the Board and in the
22 organization are concerned that some of the perspective
23 that was given was not accurate, and so we began a
24 process formally at our July members and Board meeting to
25 change that.

1 We're in that process. As you can imagine, this
2 is a, this is a big ship to turn around. We have hired a
3 new, a new administrative agency, "Association
4 Resources," and they've been in the, since they came on
5 Board in October they've been trying to correct just
6 basic problems with our database, and have come close to
7 that now.

8 So I share your concerns. We want to be
9 accurate. At the conference the technical council are
10 the organizers for those sessions. Board staff members
11 are organizers for those sessions, and I have been the
12 program chair. And I can, I'll give you my personal
13 assurance that those sessions are going to be highly,
14 professionally organized.

15 I have, unfortunately I have nothing to do with
16 "Recycled Scene" at this time, but we recognize those
17 problems and share your concern. And I will convey that
18 concern.

19 BOARD MEMBER EATON: Thank you.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
21 Eaton.

22 Thank you, Mr. Davis.

23 Did you have another speaker?

24 MS. JAVA: Yes, Madam Chair. At this time I
25 would like to invite Trash Talk, Betsy Rosenberg to

1 address the Board.

2 MS. ROSENBERG: I'm dropping all kinds of
3 things, the trash lady. Hi. I met some of you, not all
4 of you, I was here a couple of years ago, and thank you
5 for your support for my project back then, that is part
6 of the reason I'm still here.

7 The diversion rate is up a little, I like to
8 think I was perhaps a small part of that because what I
9 do every day is give a million listeners a waste
10 reduction tip, ways that they can reduce waste in their
11 daily lives. I do this on KCBS radio which I think you
12 get loud and clear, I hope, in Sacramento, and I'm
13 looking to expand.

14 I'm at a critical juncture in my program and
15 project. And before I tell you too much about that, and
16 I will summarize because I know it's getting late.

17 Have all of you heard "Trash Talk?" I've
18 brought a sample here if you have not. You've all heard
19 it? Okay, so I don't need to play it then.

20 Okay. I'll be happy to if you'd like to. If
21 not, I'll go into -- this one happened to be about tire
22 waste, I thought it would be appropriate. It's about so
23 eight million Firestone tires are going to be recycled,
24 what are we going to do with all those tires?

25 Why do I bring up these issues on the radio,

1 commercial radio? Because I care deeply. That's why I
2 do this. I was a newsperson covering traffic and weather
3 and murder and mayhem and fires and floods for 16 years,
4 and just was appalled by the waste in our society, and
5 appalled by the lack of environmental programming on
6 commercial mainstream media.

7 I was going to quit and go into environmental
8 non-profit work, and my smart husband said, "Why don't
9 you use your position as someone with established
10 credibility and talk about some of these issues you're
11 concerned about?" And that's how "Trash Talk" was born
12 four years ago, Earth Day.

13 And 800 original features later, I proved to my
14 news director that there was more than three to five
15 parts, meaning three to five minutes total, and he
16 realizes now it's not just about recycling, it's about
17 reducing and reusing, but even beyond that, expanded to
18 pollution solutions, green transportation, green energy,
19 energy solutions.

20 And that has launched a new segment that I'm
21 going to be starting on KCBS called "Make the Switch,"
22 and it's going to be energy efficiency tips. But
23 hopefully we'll go beyond the crisis for whatever length
24 of time it's with us to apply to make the switch to a
25 more sustainable lifestyle. All the different ways

1 that --

2 Really I should change the name of my program to "The
3 Greening of America" because that's really what" I'm
4 covering, whether it's hotel waste, restaurant waste.
5 I've got the beat covered. I've got an exclusive here,
6 nobody else seems to want it, but I find it fascinating.
7 Because if you take, you know, everything we do every
8 day, electronics disposal, all those problems nobody
9 really knows what to do, and I don't have all the answers
10 and that's when I call on my great resources to get
11 answers.

12 But we do get a lot of inquiries from listeners,
13 and we try to keep up with that. When I say we, it's
14 basically me. I have a little bit of part-time help.

15 So I'm here to ask for your support. I was not
16 here last year, apparently because of some bureaucratic
17 snafu there was no funding for the year 2000, which was a
18 little disappointing to me because I thought for sure
19 when I, I didn't even know about AB 939, I had this
20 personal passion. When I found out about 939 I thought
21 I'll get funding from the state, you know, no problem.

22 Well it just turned out that in the year 2000
23 when I thought it would be easiest, because of whatever
24 happened that was not possible last year, and the EPA had
25 cutbacks in its solid waste program, so I got no funding

1 there either.

2 I'm in a bit of quandary because I don't get
3 paid for this, this is a labor of love as far as KCBS,
4 they don't pay for the costs, so I became a non-profit
5 project of the Tides Center allowing me to apply for
6 grants.

7 What I've learned in the last four years is that
8 I don't really fit any particular categories. Different
9 foundations have land use, water issues, species
10 preservation, but they don't really have waste on their
11 agenda. And yet, as you probably know, it's a big
12 challenge in our society.

13 So I get turned down when they don't really know
14 exactly what I do, but when they do, the more they know
15 about what I'm doing and the impact, because it's direct
16 to consumers, I do have some limited success. But I
17 don't have time to write grants full-time, so I'm here to
18 ask you for support in any couple of ways.

19 One, we need sponsors to launch "Make the
20 Switch," the California, I'm sorry, the Bay Area Quality
21 District is going to be our first sponsor starting for
22 two weeks in June. If we don't have continued
23 sponsorship KCBS will probably not continue it, it will
24 just be a two week run as opposed to ongoing, and believe
25 me, I've got more than enough, hundreds of energy

1 conservation tips beyond the ones that we keep hearing
2 about, the same three or five.

3 I just wanted to let you know that I've done
4 stories on connecting recycling to energy savings,
5 interviewed Linda Moulton-Patterson; and people don't
6 necessarily connect those dots, it's not obvious to
7 people. And that's what I try to do is show the impact
8 of everyday behavior on our environment, but not gloom
9 and doom. What you can do about it, positive
10 suggestions, alternatives to the status quo so that we're
11 not so wasteful.

12 And having said that, I just, now that I have
13 your attention, I get calls all the time about a couple
14 of issues; one, what can I do with my electronics? I've
15 got a fax machine, I've got an answering machine, I've
16 got a camera that doesn't work, what should I do with
17 it? And that's the one question I haven't gotten really
18 answers for. So you don't have to answer me right now,
19 but perhaps I could work a little bit closer with the
20 Board on coming up with some of the vexing problems and
21 challenges. And as we all know, with computers being
22 disposed at alarming rates and, you know, HDTV coming in,
23 we're going to have more of this than ever.

24 So I don't want to quit what I'm doing, but I'm
25 quite frankly getting to the burnout rate because, point

1 I should say, because this is four years and going, and I
2 want to continue doing it, but I really need support from
3 people who get the value of what I'm doing. And it ain't
4 the radio station, they could care less, it's just keep
5 the needle moving.

6 The funders, you know, unless they really know
7 what I'm doing, I don't quite fit their square peg. So I
8 appeal to you, really, to please help me continue to do
9 my work, because I don't have to do it, I want to do it,
10 and I care, and I don't want to, I don't see anyone else
11 doing it. If someone else wanted to do it, I'd be happy
12 to spend more time with my husband and daughter, but I
13 don't. So I really want to use my position as someone
14 inside journalism to expand the program to other stations
15 and other markets. And I'm hoping to meet with the
16 Sacramento CBS station tomorrow to offer it to them.
17 Nobody will pay for it, I've got to offer it for free, so
18 I need some way to sustain my operations.

19 And I thank you for listening.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
21 Rosenberg, and we really appreciate all your volunteer
22 work and your good work. Thank you.

23 MS. ROSENBERG: Thank you.

24 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

25 BOARD MEMBER MEDINA: Madam Chair, I also think

1 that this is really a worthwhile effort, and again on
2 behalf of all the Board members we appreciate all the
3 work that you've done.

4 And I'd like to move Resolution 2001-121, be it
5 resolved that the Board approves \$20,000 for sponsorship
6 activities for fiscal year 2000/2001 as follows.

7 California Resource Recovery Association,
8 \$10,000.

9 Trash Talk, the Tide Center, \$10,000.

10 BOARD CHAIR MOULTON-PATTERSON: I'll second
11 that. We have a motion by Mr. Medina, seconded by
12 Moulton-Patterson. I don't see any -- did you have a
13 comment?

14 BOARD MEMBER EATON: No, I'm just getting ready
15 to vote.

16 BOARD CHAIR MOULTON-PATTERSON: I'm sorry.
17 Would you please call the roll?

18 BOARD MEMBER EATON: But I can wait. Aye. Did
19 you call?

20 BOARD SECRETARY VILLA: Eaton.

21 BOARD MEMBER EATON: Aye.

22 BOARD SECRETARY VILLA: Medina.

23 BOARD MEMBER MEDINA: Aye.

24 BOARD SECRETARY VILLA: Paparian.

25 BOARD MEMBER PAPARIAN: Aye.

1 BOARD SECRETARY VILLA: Roberti.

2 BOARD MEMBER ROBERTI: Aye.

3 BOARD SECRETARY VILLA: Moulton-Patterson.

4 BOARD CHAIR MOULTON-PATTERSON: Aye. Thank you
5 very much.

6 We are going to have to make a change really
7 quickly in court reporters, but can you stay five more
8 minutes rather than change?

9 (Thereupon there was a discussion off the
10 record.)

11 BOARD CHAIR MOULTON-PATTERSON: Okay. We're
12 going to go onto item 47. Mr. Miller is going to give us
13 a report on pending legislation.

14 MR. MILLER: Good evening, Madam Chair and
15 members. My name is Michael Miller, Assistant Director
16 of the Office of Legislative and External Affairs.

17 The purpose of this monthly agenda item is just
18 to give you an ongoing update of what's happening in
19 legislation. We give you the opportunity and the public
20 an opportunity to discuss it or bring any issues to my
21 attention that you'd like or ask any questions.

22 What I'm going to do today is be very brief,
23 give you a couple of bills that are moving, and then ask
24 you if there's anything you'd like to discuss.

25 Currently the legislative office is tracking 107

1 bills, 42 of those bills are identified as priority one
2 bills, and all of those bills are listed on our website,
3 and it's updated weekly, our staff updates it weekly to
4 put in the most current information, amendments, status,
5 all of that.

6 If all of those priority one bills were to
7 become law today, there would be an effect of about \$34
8 million annually on the Board budget. Consequently,
9 realistically you can look at that and say they're not
10 all going to move in the current form, they will be
11 amended along the way.

12 The Board is sponsoring AB 1187 by Simitian.
13 That bill was heard early this week. It was approved
14 unanimously by the Assembly Natural Resources Committee.
15 It is a technical, non-controversial bill. The Assembly
16 Republican caucus had a concern with one item of the bill
17 in the complete permit package. That provision of the
18 bill was taken out to continue the non-controversial
19 nature of the bill.

20 The second bill of interest I've heard from the
21 Board members is SB 373 by Senator Torenson. That bill
22 puts a mandate on school districts to reduce the waste
23 and also to implement recycling programs. The bill is
24 approved by the Senate Environmental Quality Committee,
25 taken up early this week, actually this morning by the

1 Senate Education Committee where it was opposed by school
2 administrators. Californians Against Waste is the
3 sponsor of that bill and with the author they took
4 amendments to stream the bill way back. I haven't seen
5 the amendments that was done, it was done just this
6 morning, but it was approved by the Senate Education
7 Committee.

8 And the last one I wanted to discuss just
9 briefly was SB 243 by Senator Kuehl. It was a bill that
10 was discussed earlier in the radioactive discussion, item
11 number 37. That bill is currently in legislative intent
12 form, it doesn't have a lot in it, it's just legislative
13 intent to deal with the issue.

14 It will be heard next week, is my understanding,
15 in the Senate Environmental Quality Committee where it
16 will be amended to take the shape of where Senator Kuehl
17 wants to go with the bill, which I haven't seen the
18 language yet.

19 With that, if there's anything that you'd like
20 to discuss, I'll be happy to answer them.

21 BOARD CHAIR MOULTON-PATTERSON: Any questions?
22 And we promise not to put you at the end of the long
23 agenda next time.

24 MR. MILLER: That's okay.

25 BOARD CHAIR MOULTON-PATTERSON: Because we are

1 very interested in the legislation.

2 MR. MILLER: And our staff is available if you
3 have any questions at all.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
5 you. According to my notes we have 31, 32, and 36 that
6 we'll be discussing at a time certain as soon as we know
7 what that date will be.

8 ACTING EXECUTIVE DIRECTOR BRUCE: What I'd like
9 to recommend for your consideration and then you can get
10 back to me, is that the week that we would normally do
11 our May agenda review, that Wednesday is also the
12 household hazardous waste conference which I know many of
13 you are planning on attending, so I'd like to recommend
14 that we do our briefing on the 14th, whereby we could do
15 a short agenda review briefing, we also have our tires to
16 energy, and I think we could have these three discussion
17 items so that we can do it all in that one day, and that
18 would give us plenty of time to do our ten day notice.

19 BOARD CHAIR MOULTON-PATTERSON: Does that work
20 for others as far as you know? It does for me.

21 ACTING EXECUTIVE DIRECTOR BRUCE: That's Monday,
22 the 14th of May.

23 BOARD CHAIR MOULTON-PATTERSON: How about you,
24 Mr. Eaton?

25 BOARD MEMBER EATON: I have to check the

1 calendar. I assume we're going to have the waste tires.

2 BOARD CHAIR MOULTON-PATTERSON: Okay. Yeah.

3 Great. That looks like the best one.

4 Thank you. And with that, I appreciate
5 everyone's work, it's been a long two days. And thank
6 you, and we are adjourned.

7 Thank you, Doris, very much.

8 Were there any public comments?

9 (Thereupon the foregoing was concluded at
10 5:06 p.m.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

I, DORIS M. BAILEY, a Certified Shorthand Reporter and Registered Professional Reporter, in and for the State of California, do hereby certify that I am a disinterested person herein; that I reported the foregoing proceedings, in shorthand writing; and thereafter caused my shorthand writing to be transcribed by computer.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings, nor in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand as a Certified Shorthand Reporter and Registered Professional Reporter on the 8th day of May, 2001.

Doris M. Bailey, CSR, RPR, CRR
Certified Shorthand Reporter
License Number 8751